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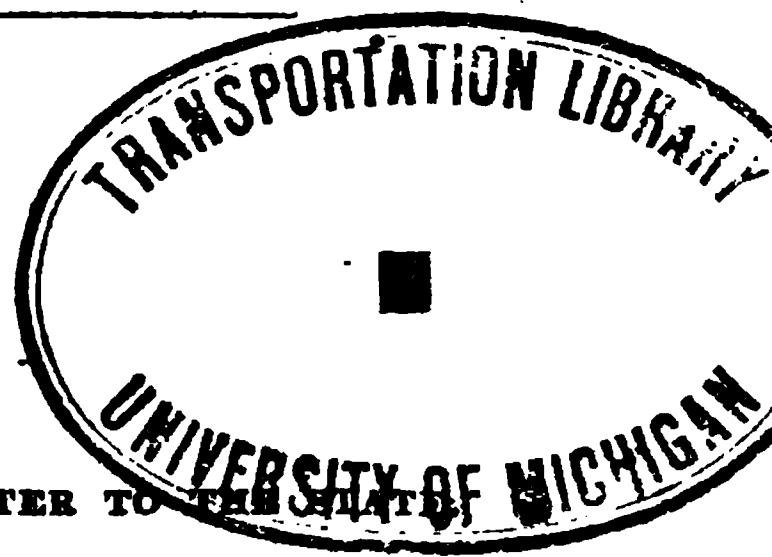
FIFTY-FOURTH SESSION,

1831.

FROM No. 1 TO 78, INCLUSIVE.

ALBANY:
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.....
1831.



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Edgar Allan Poe
No. 3.

IN SENATE,

January 5, 1831.

REPORT

**Of the Inspectors of the Mount-Pleasant State
Prison.**

**TO THE HONOURABLE THE LEGISLATURE OF THE
STATE OF NEW-YORK.**

The Inspectors of the Mount-Pleasant State Prison,

RESPECTFULLY REPORT :

That on the 1st of January, 1830, there remained in the hands of
the Agent, Elam Lynds, a balance of..... \$901 22
And since that time he has received,

From the State treasury,	40,000 00
For work done in the smith's shop,.....	1,194 73
" " stone shop,	10,631 26
" " carpenter's shop,	179 30
" " shoe and weave shop,.....	1,247 72
For rags sold,	30 68
For logs sold that remained on hand after finishing the dock,	366 75

In all,..... \$54,551 66

Which monies have been applied and expended in the manner fol-
lowing, viz :

For stock and tools for the smith's shop,	\$1,042 20
Tools for stone-cutters and quarriers,.....	3,175 98
Building materials,	1,356 36
Tools for shoe and weave shop,	135 70
Clothing,	3,459 51

For bedding and prison furniture,	\$152 29
Soap, oil and fuel,.....	1,053 22
Provisions,	14,376 92
Hospital,	264 72
Library, (bibles, and some spelling-books,)	115 06
Stationary and postage,	124 60
To discharged convicts,	172 00
For apprehension of convicts escaped,.....	24 63
Freight accounts,	494 57
To agent, clerk and keepers,	10,137 27
Physician,	416 60
Chaplain,	250 00
Guard,	5,557 46
For the dock,	9,189 32
Female convicts,	1,787 28
Travelling and incidental expenses,	285 32

In all,..... \$53,571 01

Leaving a balance in the hands of Elam Lynds, the
Agent, on the 31st of October, 1830, of \$980 65

Of the sum of \$53,571.01 expended as above, \$18,593.30 have been paid for the purchase of materials for the dock, buildings, &c. and \$34,977.71 have been expended in the general support of the Prison, including the support of the female convicts in the city of New-York, &c.

During the past season, a large and substantial wharf, running along the whole front of the prison yard, has been built. Its length is, altogether, 646 feet; and when filled in and completed, it will make the front yard about 400 feet wide, by 500 feet long. In this yard it is proposed to erect extensive and permanent shops for cutting stone.

The keeper's house has also been finished during the past season. Some very heavy stone walls (about 800 feet in length) have been erected near the prison and keeper's house, to secure the banks and shore; and considerable labor has been done towards the 200 additional cells.

The contracts for furnishing marble, &c. made previous to and during the past year, amount in all to about \$38,900.00. On these

a considerable part of the work has been done and delivered, since the last report.

Besides the sum of \$30,000, which was appropriated for the general support of this prison, a law was passed late in the last session of the Legislature, authorising the erection of two hundred additional cells, and appropriating the sum of \$10,000 for that object. The Inspectors, upon being advised by Capt. Lynds, that the additional cells would not likely be required before the spring of 1831, and that the sum appropriated was insufficient for their completion; and in consideration of valuable contracts existing and offered for the purchase of marble, iron work, &c. determined to postpone the erection of these cells till that time; but directed that in the interval the materials should be purchased and prepared, so that the said cells might be erected and completed early in the season proposed. This sum of \$10,000 has been drawn with the general appropriation for the support of the prison, &c. as may be seen at the commencement of this report, and no separate account of its expenditure has been kept by the Agent. Considerable progress has, however, been made, as before stated, towards the erection of the additional cells, in the preparation of materials by the convicts. The whole expense of the 200 cells was estimated at \$25,000, and the cost of the materials alone at about \$9,700; and it may therefore be inferred, that the appropriation of \$10,000 was to meet this latter expense only.

The paper marked C, accompanying this report, is an inventory of the property belonging to the Mount-Pleasant State Prison, on the 31st of October, 1830:

The number of convicts in this prison, on the 31st of	
October, 1829, was	569
From that time to the 31st of October, 1830, there	
have been received, (see letter D)	316
	<hr/> 885
There have been discharged during the same period, by	
expiration of sentence, (letter E)	88
By death, (same letter)	16
And by pardon, (letter F)	29
There has been transferred to the House of Refuge	1
And there has escaped	1
	<hr/>
In all,	115
	<hr/>
Leaving in prison, on the 31st October, 1830,	770

convicts, making an increase of 201 during the past year. This astonishing increase, cannot fail to strike the attention of the legislature, and would seem to indicate, that at no distant day, a still further enlargement of our State Prisons will be required. It is believed, however, that the Auburn state prison will not exhibit so great an increase. The Mount-Pleasant state prison, receives now, by law, convicts from four Senate districts, or half of the state, and by direction of the governor, from several counties besides. By an examination of the last year's reports, of this and the Auburn prisons, it will be seen that the city of New-York furnished more than one-fourth of the whole number of convicts, received at these prisons, during the preceding year. And it will also be perceived, that the city of New-York, in the ratio of its population, furnished three convicts to one from the residue of the state. That it may continue to produce the same proportion of state prison convicts, is not improbable, considering its rapid augmentation, and the character of much of the population peculiar to such a city. The first three districts, containing as they do, all the cities and some of the principal towns in this state, will probably for a long time continue to produce more criminals for the state prison, than the remaining five districts. It may be added, that the expense of removing convicts from distant parts of the state to this prison, is no inconsiderable expense. It is submitted therefore whether the territory which sends convicts to this prison should not be diminished.

The paper marked G, will shew the actual employment and occupation of the convicts on the 31st of October, 1830; but their employment varies from time to time, according as their labor may be required in the quarries, at the shops, or otherwise. From this paper it will also be perceived, that less than one half of the whole number of convicts, have as yet, been employed in producing material and workmanship for sale. A part of the approaching season must pass away, before the number that may be thus employed, can be much enlarged; for besides the erection of the 200 cells, it will be necessary to open new and extensive quarries. In doing this, much labor and expense may be required to obtain the quality and quantity necessary to supply the probable demands. It has sometimes happened that after a great deal of labor and expense in opening a quarry, the marble would become of an inferior quality, or give place to ordinary building stone.

Latterly a better quality of marble has been produced at these quarries, than formerly ; and it is believed that the state prison farm will afford marble still superior to any that has yet been wrought. This marble is becoming known, and is in considerable demand ; and thus contracts can now be made to better advantage than formerly, as it was then necessary to get into market *at any rate*, to put down prejudice and opposition.

This prison is yet in its infancy, and there is every reason to believe, that when it shall have advanced into maturity and fair operation, its success will equal the best hopes of the legislature. After the prison buildings are completed, and when the convicts can be employed exclusively in the support of the institution, there can be no doubt that the protection of the state will not be required in further appropriations. Until that period it cannot be expected that this prison will support itself.

To finish the 200 cells, erect substantial and sufficiently extensive stone-shops, as proposed in that report, open the necessary quarries, fill in and level the wharf and yard, and support the female convicts, it is believed that an appropriation of \$35,000 is required and will be sufficient. This should be made early in the session, as the agent has now no funds for the use of the prison, except such as he may occasionally receive on contracts.

The guard employed at this prison, consists now of a sergeant and twenty-three privates—in all twenty-four men. During the past season from 100 to 120 convicts have been engaged in a quarry at some distance from the prison, under the charge of three keepers and four guards. It is now deemed expedient, to open a quarry at the distance of a quarter of a mile from the prison ; and it is believed that an increase of the guard will be required. It is therefore proposed, that a law be passed, authorising an increase to the guard of six additional privates, to be added and reduced, at such times, and in such proportion, as the inspectors may deem necessary.

The report of the physician, subjoined, (letter A.) will shew the health of this institution for the last year. We will only add, that, from the employments peculiar to this prison, casualties must often happen ; and, that convicts from the city, frequently arrive here, in a diseased state, and with shattered and broken-down constitutions.

The chaplain has also made a report to us, which we add entire, (letter B.) It will be seen that besides his services on Sunday, he is more or less every day of the week at the prison; and that his attentions have been unremitted, for the benefit and instruction of these depraved and unfortunate men. The former chaplain of this prison, was allowed \$300 a year by the commissioners, and received also \$300 from the Boston prison discipline society. The present chaplain has never received any thing from that society, but has remained thus long, at the insufficient salary of \$300 a year, as allowed him by law. As it is by no means desirable, that we should be dependent in any respect, upon foreign support, and as the present chaplain devotes the whole of his time to this charge, with faithfulness, discretion and diligence, it is submitted whether he should not be placed, immediately, by law, upon as good a footing as the former chaplain.

The paper marked H. is a list of the female convicts, belonging to this prison, who were confined in the care of the corporation of the city of New-York, on the 20th November, 1830. On the 20th November, 1829, the number of these was 34. Four have been discharged by expiration of sentence, and three by pardon, and eleven have been added during the past year; leaving 38 in confinement there, on the 20th of November last, at an expense to this prison of \$100 each per annum. It will be thus seen, that the probable expense, for the female convicts during the current year, may be rising \$4,000.

The inspectors of this prison would invite the attention of the legislature again to the subject of a separate prison for the female convicts of this state. They would beg leave to refer to the last report of the late able commissioners of this prison, for a statement, exhibiting the cost of such an establishment, and locations for the same; and also to the last report of the Auburn prison, shewing the interest and approbation, of the experienced inspectors of that prison on this subject. Such an institution, under proper regulations, would no doubt improve the moral condition of this class of convicts, enlarge the Auburn prison for male convicts, and relieve this prison of a heavy burden; and we earnestly hope it will receive the early, full and decided attention of the legislature.

Of the government and discipline of this prison, it can be only necessary to say a word. At the moment this report is being prepared, there are here confined, rising 800 convicts. That such a

number of the most vicious and depraved of the human race, including some of the fiercest, most daring and desperate spirits, are kept in steady subjection and useful employment, in an unwall'd prison, by 18 or 20 keepers, and 24 guards (and of these, a part, of course, always off duty,) is at once the evidence of the efficacy and force of the system, and of its constant, energetic and entire preservation. And it will be readily believed, that the agent of this prison (as well as the other keepers, &c.) enjoys no sinecure; but that the responsibilities and duties of the situation, must of necessity demand the most diligent and vigorous attention.

The present Inspectors of this prison were appointed, and they commenced their duties, in April last. They immediately resolved to continue Capt. Lynds as Agent, Dr. Hoffman as Physician, and the Rev. Mr. Dickinson as Chaplain, of this prison. The two latter gentlemen, remain still in the discharge of their respective employments; but Capt. Lynds, after having given his mind, and devoted some of the best years of his life, to the improvement of our prison discipline; and after witnessing the full success of his system, has retired from the duties, and resigned the agency of this prison. Of his peculiar talents and services, it is unnecessary here to speak—they are known to the world—and his retirement will be regarded as a public loss, by the people of this state. This board will therefore only add, that in every respect he possessed their entire confidence and esteem, and that he left the situation very much to their regret, and to the regret of their fellow-citizens.

The resignation of Capt. Lynds took effect on the 31st of October last, and the Inspectors having appointed in his place, Robert Wiltse, late deputy-keeper, as Agent of this prison, Mr. Wiltse entered upon the duties thereof on the same day. Mr. Wiltse was known to the Inspectors, as an active and able keeper; he had been the deputy-keeper for more than two years, and possessed the entire confidence of Capt. Lynds; and the Inspectors have reason to express their full confidence, that he will be found a faithful, efficient and valuable agent, and that he will sustain the government, discipline and high character of this institution.

It is proper to state, that on the 20th Dec. inst. and since the foregoing was draughted, 22 convicts were brought together to this prison, from the city of New-York, two of whom were already broken out with the small pox. One of these two had entered the prison, before

the discovery was made by the agent, who then took immediate measures for their removal to a distance from the prison, where they have since been taken care of, guarded and attended by the physician. They are now recovering. The Inspectors had a meeting on that day, and arrived a few minutes afterwards at the prison, and, as required by law, passed a resolution authorising the removal. Kine-pock matter was obtained as soon as possible, and such keepers and guards, together with the convicts, as felt themselves liable to the disease, were vaccinated. It may be mentioned also, that in August last, a convict was brought from New-York to this prison sick, and when the physician, who was immediately sent for, saw him, he found him in the last stage of typhus fever, insane and speechless. He only survived 48 hours. We do not intend to attach blame, either to the court which sentenced, or to the officers having charge of these prisoners ; but it may be inquired whether sufficient caution is generally used to ascertain the health of convicts under such circumstances. Surely it cannot be necessary to remove convicts thus, at the hazard of their own lives, and the lives of others.

But as this prison, may be always liable to the introduction of contagious diseases, it will be requisite to have a separate hospital, at a distance from the prison, sufficiently strong and roomy, in readiness for such contingency. The terrible character of the small pox, the general alarm excited by its appearance, and the injurious and fatal effects it might produce, should it spread in the prison, all seem to require, that we should spare no pains to guard against so great an evil.

All which is respectfully submitted.

PIERRE VAN CORTLANDT,
ALLAN MACDONELD,
JOHN FISHER.

INSPECTORS' OFFICE,
Mount-Pleasant State Prison, }
December 28, 1830.

DOCUMENTS

Accompanying the Report of the Inspectors of the Mount-Pleasant State Prison.

(A.)

PHYSICIAN'S REPORT.

State Prison, Mount-Pleasant, Oct. 31st, 1830.

In making the annual report of health, I have the pleasure to state that there has been no prevailing disease during the past year, which could be imputed to local causes, the diseases have been such as are peculiar to the climate and prevalent in the neighboring towns.

The average proportion of hospital cases, including casualties, has been two per cent. Nine have died from causes foreign to the prison. They were sick when received, and many of them in the advanced stage of those diseases of which they died, viz:

William Slows, received into prison July 28th, disease consumption, which he stated he had for the last six months, was emaciated and much reduced by his disease; died Nov. 5th, age 30.

John Dugan, sentenced 11th Sept. 1829, came to prison with dropsy of the chest, said he had been sick for the last two or three months, that he had been very intemperate, and that his physician had informed him his case was incurable; he died Dec. 30th, age 30.

John Bird came to prison May 20th in the incipient stage of consumption; died Jan. 24th, age 36.

Robert A. Young, received Oct. 20th; disease dropsy of the chest and abdomen, which he said he had for the last nine months; that he had been recently discharged from a hospital, his case having been pronounced incurable, and that he had been for many years excessively intemperate; died March 13th, age 45.

John Scott, sentenced Oct. 28th, 1828; came to prison with palsy of left arm and leg; died suddenly on the 3d of April, from a paralytic shock, age 43.

Cornelius Acker, received at this prison in May 1828, had been an invalid for a long time; disease chronic dysentary; died May 1st, age 44.

Frederick Meigs, brought to prison August 16th, in the last stage of typhus fever, insane and speechless; died on the 18th, about 48 hours after he was received; age not known.

Miles Maxwell, received August 16th; had taken poison the morning he was brought to prison, from which he died on the 22d, age 30.

John A. Ellsworth, sentenced the 17th of June, 1816, came to this prison in May 1828, had been 12 years in prison, and sick for a long time; disease chronic diarrhoea and rheumatism; died Sept 19, age 53.

Seven have died during the year, from diseases contracted while in prison, viz :

Hugh McClalen, received 18th July, 1827; disease aneurism; died Feb. 7th, age 43.

Johnson J. Jarvis, received Oct. 3d, 1825; disease consumption; died March 5th, age 24.

Simeon Mitchell, sentenced Oct. 15th, 1829; disease abscesses; died June 24th.

Jeremiah Pemberton, died August 16th; received in May 1828; disease dropsy of the chest; 4th sentence, in prison 14 years.

Eli Mallery was in bad health when brought to prison in 1828, recovered, and has performed manual labor; has been confined for the last 12 years; died August 24th, from repeated attacks of dysentery, age 58.

Robert Hasbrook, sentenced 14th July, 1827; disease consumption; died Sept. 29th.

George Simmons, received Sept. 10th, 1829; disease chronic dysentery; died Oct. 2d, age 39.

The greatest part of the hospital cases for the last two years, has consisted of those who were sick at the time they were brought to prison, whose constitutions were worn out by a long continued course of debauchery and intemperance.

A. KISSAM HOFFMAN,
Attending Physician.

(B.)

CHAPLAIN'S REPORT.

To the Inspectors of the Mount-Pleasant State Prison :

GENTLEMEN,

Agreeably to your request, I submit the following communication :

As your report will probably be the only medium through which the moral condition of this prison will reach the public, it would not perhaps on this account be considered out of place to enter into a more detailed statement of facts. But while there is evidence that the means of moral and religious improvement have not been used without effect, I shall not venture to dwell on such as chiefly lie between the creature and his Creator, conscious that results must remain in a great measure bound up in secrecy until the revelation of the last day.

My communication, therefore, will consist in the main of *means and duties*.

Besides the regular chapel service, it has been my practice on the Sabbath, to lecture in the Hospital, and also to administer private instruction.

Evening worship is maintained in the hospital, and in both halls of the prison separately. This exercise is attended with encouraging marks of usefulness. In the gloom and stillness of evening, when darkness begins to gather in every cell, when there is nothing to interrupt reflection, but every circumstance auspicious, this is the time, if ever, that a man will be wrapped up in deep serious contemplation.

Hitherto the instructions usually given in Sunday school have been confined to the Chaplain, owing chiefly to the difficulty of procuring judicious and responsible teachers; but we have it in prospect very soon, and I might say it is already begun, to receive the aid of others, and to enjoy all the advantages of a Sunday school. During the past year, sixty or seventy were found incapable of reading. On manifesting an anxiety to learn, they have received my almost daily attention. Spelling-books were procured by the Agent; and their improvement in general has been what might be expected of those who were anxious to learn. Some have laid aside the spelling-book; and in a short time, it is hoped all will be able to read the Scriptures.

There have several cases occurred of a deep and pungent sense of crime, as committed against God—apparent humiliation, and other exercises which can only be accounted for satisfactorily by ascribing them to a divine influence. These are characterized by *ready submission*, an acknowledgment of the justice of their punishment, a cheerful enjoyment of religious privileges, and what is worthy of remark, they have scarce ever given the slightest intimation of a desire of deliverance or pardon from prison.

Many, during the last year, have committed a very considerable portion of Scripture to memory.

There are several interesting facts connected with this subject, that cannot be embraced in the narrow limits of this communication. The duties to be discharged in this great moral waste, are equally *arduous* and *responsible*. Among a class of men so diversified in point of intellect, as well as of guilt and moral sense, there is room for the most cautious and faithful application of divine truth. And it is due to the Agent as well as officers of prison generally, to add, that every desirable facility has been given in the discharge of my official duties.

Yours, very respectfully,

JONATHAN DICKERSON.

Sing-Sing, December 20, 1830.

(C.)

*Inventory of Property belonging to the State in State Prison at
Mount-Pleasant, on the 31st of October, 1830.*

Cooper's tools and fixtures,.....	\$60 84
Shoemakers' shop, do.	266 54
Tailors' do.	11 98
Woollen and cotton machinery,.....	700 36
Blacksmiths' shop, tools and fixtures,.....	1,358 33
Prison furniture, cooking apparatus, &c.....	1,701 24
Carpenters' shop, tools and fixtures,.....	465 14
Quarries and stone shop tools, do.	4,534 57
Two pair of oxen,.....	125 00
Clothing, exclusive of articles in wear,.....	1,064 21
Library, 800 bibles,.....	480 00
Bedding, mostly in use,.....	6,455 84
Hospital medicines,.....	126 00
Lumber,	628 07
	<hr/>
	\$17,978 12
	<hr/>

31st October, 1830.

M OF SENTENCE.		REMARKS.
.....	10	
rs,	3	Blacks,..... 55
)	1	
)	28	
)	1	
)	26	
)	3	
)	73	
)	17	
)	58	
) and 1 day,	30	
)	66	
	316	

[S. No. 3.]



15 April, " "

8 July, 1830

113 April,	Died 29 September, 1830.
" "	
July, 1830,	
.....	
Jan. "	
May, "	
June, "	
April, "	
Oct. "	
Jan. "	
Feb. "	
June, "	Died 13 March, 1830.
.....	

[S. No. 3.]



(F.
VICT

t, from

~~_____~~

COMPLETED.

Negro, .
Light, ... 1830.
Dark, ...
Light, ...
Light, ... 1830.
Light, ... 1830.
Light, ... 30.
Dark, ... 829.
Brown, ... 30.
Dark, ... 30.
Light, ...
Dark, ... 1829.
Fair, ... 830.
Fair, ...
Black, ...
Fair, ...
Fair, ... 0.
Light, ... 30.
Dark, ...
Fair, ...
Fair, ... 30.
Negro, ...
Fair, ...
Dark, ...
Light, ...
Fair, ...
Fair, ... 0.
Dark, ...
Fair, ... 0.



(G.)

EMPLOYMENT OF PRISONERS.

The 770 prisoners are now employed as follows:

Cutting stone for sale,	210
Laborers, shop tenders and waiters, in said shop,	32
Quarrying stone for shop,	46
Blacksmith shop at work for stone shop,	10
Shoemakers on contract,	16
	<hr/>
	314
 Cutting stone for prison,	 90
Laborers in this shop,	22
Quarrying stone for prison, and opening quarries,	119
Blacksmiths at work for prison,	30
Laborers filling in docks and building rough wall,	72
Shoemakers, weavers, tailors, spinners and carders, manufacturing clothing for prisoners,	74
Cooks, washers and bakers, in the kitchen,	18
Waiters in the prison hall,	6
On trucks and hand-barrows,	25
	<hr/>
	770
	<hr/>

October 31, 1830.

1. The first row contains the numbers 1 through 10.
 2. The second row contains the numbers 11 through 20.
 3. The third row contains the numbers 21 through 30.
 4. The fourth row contains the numbers 31 through 40.
 5. The fifth row contains the numbers 41 through 50.
 6. The sixth row contains the numbers 51 through 60.
 7. The seventh row contains the numbers 61 through 70.
 8. The eighth row contains the numbers 71 through 80.
 9. The ninth row contains the numbers 81 through 90.
 10. The tenth row contains the numbers 91 through 100.

w-York.

ANCE.	COUNTY CONVICTED	REMARKS.
....	New-York,	By expiration, June 17, 1830.
....	do	
....	do	
....	do	By pardon, July 1, 1830.
....	Albany,	
....	New-York,	
....	Orange,	By expiration, June 17, 1830.
....	New-York,	
....	Dutchess,	
....	New-York,	
....	do	
....	Westchester,	
8, ..	New-York,	
..	do	
..	Orange,	
..	New-York,	
..	do	By pardon, September 27, 1830.
29, ..	Kings,	
..	New-York,	
..	do	
..	do	
..	Kings,	
..	Dutchess,	
..	New-York,	
..	Albany,	
..	Rensselaer,	
..	New-York,	
..	Albany,	
..	Rensselaer,	
..	do	
..	New-York,	
30, ..	do	
....	Dutchess,	
....	Westchester,	
....	do	
....	Dutchess,	
....	New-York,	
....	do	
....	Greene,	
....	New-York,	
....	Kings,	
....	Oneida,	

[S. No. 3.]

IN SENATE,

January 6, 1831.

Standing Committees of the Senate.

JANUARY 1831.

On Claims.

Mr. Hubbard,
Mr. Armstrong,

Mr. Sherman.

On Finance.

Mr. Todd,
Mr. Bronson,

Mr. Warren.

On the Judiciary.

Mr. Benton,
Mr. Throop,

Mr. Beardsley.

On the Militia.

Mr. Wheeler,
Mr. Deitz,

Mr. Gere.

On Canals.

Mr. Tallmadge,
Mr. Hubbard,

Mr. Armstrong.

On Roads and Bridges.

Mr. Dodge,
Mr. Westcott,

Mr. Lynde.

On Literature.

Mr. McLean,
Mr. Maynard,

Mr. Tallmadge.

On the State Prisons.

Mr. Throop,
Mr. Allen,

Mr. Rexford.

On Banks and Insurance Companies.

Mr. Allen,
Mr. Benton,

Mr. Eaton.

On the Division of Counties and Towns.

Mr. Beardsley,
Mr. Warren,

Mr. Conklin.

On Agriculture.

Mr. Gere,
Mr. Porter,

Mr. Fuller.

On Manufactures.

Mr. Sanford,
Mr. Quackenboss,

Mr. Schenck.

On Privileges and Elections.

Mr. Maynard,
Mr. Porter,

Mr. Wheeler.

On Enrolled Bills.

Mr. Mather,
Mr. Seward,

Mr. Foster.

On Indian Affairs.

Mr. Foster,
Mr. Conklin,

Mr. Fuller.

On Expiring Laws.

Mr. Tracy,
Mr. Dodge,

Mr. Sanford.

On Expenditures.

Mr. Eaton,
Mr. Cary,

Mr. Quackenboss.

Select Committees on the Governor's Message.

In relation to the Surplus Revenue of the United States.

Mr. Benton,
Mr. Mather.

Mr. Deitz.

In relation to the Quarantine Establishment.

Mr. Sherman,
Mr. Todd,

Mr. Seward.

In relation to the Poor-House System.

Mr. Bronson,
Mr. Allen,

Mr. Lynde.

Claims of the State on the United States.

Mr. Bronson,
Mr. Westcott,

Mr. Cary.

In relation to Revolutionary Claims.

Mr. McLean,
Mr. Rexford,

Mr. Tracy.

IN SENATE,

January 7, 1831.

REPORT

Of the Commissioners of the Land-Office on the Petition of Polly Risley.

The Commissioners of the Land-Office, on the petition of Polly Risley, referred to them by the Honorable the Senate,

RESPECTFULLY REPORT:

That by the act, Chap. 36, passed March 17th, 1825, the Commissioners of the Land-Office were directed to cause all the lands in New-Stockbridge, (not before surveyed) to be surveyed and appraised, the soil and improvements of each lot separately; and it was made the duty of the appraisers to report the names of the occupants and owners of the improvements respectively, and whenever the Governor should make a purchase of any of these lands, payment for the same was directed to be made to the Indians according to such appraisement, both of soil and improvements, where the improvements were reported as belonging to *Indians*; but where the improvements on any lot were reported to belong to a *white person*, and worth fifty dollars, the appraised value of the soil only should be paid to the Indians, and such white person be entitled to the pre-emption of such lot, at the appraised value of the soil, exclusive of the improvements. Lot No. 10, of the purchase of 1825, was by the appraisers set to Polly Hendrick and Mary Jeboikim, *Indians*, as the occupants. \$51, set down as the value of the improvements of the former, and \$52, as those of the latter. The lot contained $91 \frac{34}{100}$ acres, the soil of which was appraised at \$9 per acre.

This lot was, in April last, sold by the Indians to the state, and the amount of the appraisement, of both the soil and improvements, was

paid to their agents. The value of the improvements set to Polly Hendricks was afterwards claimed by Horace Risley, since deceased, for whose right to the premises his widow has now presented her petition, to which is attached a certificate of the appraisers, stating that the \$51, for improvements, set to Polly Hendricks, should of right have been set to Horace Risley. But the Commissioners of the Land-Office were, from the tenor of the act, bound to be governed by the report made in pursuance of it, by the appraisers, and considered themselves not authorised to take cognizance of any corrections of it without special legislative authority.

If the name of Horace Risley, as a white man, had been set to what was considered as Polly Hendricks' part of the lot, he would have been entitled to the pre-emption of it, for the sum at which the soil, exclusive of the improvements, had been appraised. There is also attached to the petition, a note signed by the superintendants of the Stockbridge Indians, stating that in consequence of the alleged mistake, they had retained in their hands the \$51, to be paid over to the proper person, when duly instructed in the premises. The lot which is the subject of the petition, is advertised to be sold by the Surveyor-General, on the 13th instant.

Respectfully submitted,

SIMEON DE WITT, *Surveyor-Gen.*

SILAS WRIGHT, JR. *Comptroller.*

A. C. FLAGG, *Secretary.*

January 7, 1831.

IN SENATE,

January 8, 1831.

REPORT.

**Of the Joint Committee appointed to examine the
Treasurer's Account.**

The Committee appointed by the concurrent resolutions of the Senate and Assembly of the 17th April last, pursuant to the 4th Title, of the 8th Chapter, of the First Part of the Revised Statutes,

RESPECTFULLY REPORT:

That in discharging the duties of their appointment they have carefully examined and computed the amount of all monies received into and paid out of the treasury, during the year commencing on the 1st day of December, 1829, and ending on the 30th day of November, 1830, both days inclusive, by which it appears that during that period there has been paid into the treasury the sum of \$1,993,629.11. Which added to the sum of \$44,793.56, the amount remaining in the treasury on the 1st day of December, 1829, makes the sum of \$2,038,422.67.

From the bank book of the Treasurer, kept by the Commercial Bank of Albany, and the certificate of the cashier of the Manhattan Company in New-York, it appears that there remained to the credit of the Treasurer in the Commercial Bank, on the 1st day of December last,..... \$68,665 81
Uncurrent bills,..... 961 06
Manhattan Company,..... 18,728 88

\$88,355 75

These deposits shew an excess of \$18,461.91 above the amount which appears to be in the treasury by the account of the Treasurer,
{S. No. 6.}

which is accounted for by the amount of unpaid checks on the Commercial Bank, on the 1st day of December, as appears by the certificate of the Comptroller to the sum of \$1,696.88. And by the amount of uncertified deposits in the Manhattan Company, not charged to the Treasurer in consequence of the certificates not having been produced, as appears by the returns of the cashier of the Company, amounting to \$591.41; and the amount of unpaid checks on the Manhattan Bank, out-standing on that day, as appears also by the certificate of the Comptroller, to the sum of \$15,813.62. There is also a special deposit to the credit of the Treasurer in the Commercial Bank of \$360, made by I. Mappa and I. Stoops, which is not yet charged to the account of the Treasurer, in the books of the Comptroller.

The committee have also examined all the warrants drawn by the Comptroller and credited to the Treasurer, amounting to \$1,670, with the accounts and vouchers accompanying the same, and the audits of the Comptroller thereupon. We have also compared them with the several statutes by virtue of which they purport to have been drawn, and in the opinion of the committee, they have all been drawn and paid in conformity to the laws, and for demands which are properly chargeable and payable at the treasury, except in the instances herein after mentioned.

WARRANTS Nos. 1,302 and 1,303.—*For transporting convicts.*

These warrants are drawn in favor of the sheriff and deputy-sheriff of the county of Kings, for transporting convicts from the jail of that county to the state prison at Mount-Pleasant. The sheriff charges for 35 miles and the deputy-sheriff for 38 miles. One of them is probably erroneous.

WARRANT No. 1,591.—*For contingent expenses of the Adjutant-General's office.*

The Revised Statutes, vol. 1, p. 192, § 12, provides "that the expenses of all necessary blanks, blank books, stationary and official postage in the office of the Adjutant-General, shall be paid out of the treasury. In the account with this warrant, charges for office furniture and for advertising, transportation, cartage, packages, &c., are contained, and through misapprehension, have been paid to the amount of \$9.37.

WARRANT No. 1,513.—*For revising the Laws.*

The following is a copy of the account annexed to the warrant :

State of New-York,

To John L. Tillinghast, Dr.

To services performed under the direction of Benjamin F. Butler and John C. Spencer, Esqrs. revisers of the Statutes, in copying and arranging the titles of acts of incorporation now in force, and of unincorporated ferries and toll bridges, for the third volume of the revised edition of the laws, and making an *index* to that volume, from the 14th January, 1830, to 9th March, 1830, and from the 13th May to 20th August, and from 15th September to 5th October, at \$2.50 per day, 173 days,

\$432 50

Extra services, in reading proof of said lists, &c., equal at least to three ordinary days, 7 50

Paid to assistant in reading 15 signatures, at 19 cents each, 2 85

Other disbursements, for paper, quills, &c. 7 31

—————
\$450. 16

(Signed) JOHN L. TILLINGHAST.

The act for revising and publishing the laws of this state, Session Laws, 1825, p. 447, sec. 10, provides “that the Treasurer of this state shall, from time to time, pay on the warrant of the Comptroller, to the said Revisers or either of them, such sums of money as shall appear to the Comptroller to be necessary for defraying the expenses incurred or contracted for by said Revisers or either of them, in the performance of the duties assigned them in and by this act.”

Section 9th provides for the compensation of the Revisers. The 5th section provides “that the said Revisers shall make an index to the matters contained in the said work, and also a separate index of the public acts in force and omitted, together with a reference to the year when they were severally passed.”

At the extra session of the legislature in 1828, after making provision for paying \$2,500 to each of the Revisers, in full up to the 1st January, 1829; by section 18, Session Laws, 1828—9, p. 69, provision is made for paying two of the Revisers for preparing tables of contents, marginal notes, and an *index to the Revised Statutes*, and for superintending the printing and publication of the

whole work, the sum of \$1,000 each, to be paid when the same shall be completed."

The Revisers have certified to the Comptroller, on the account, this expenditure to be necessary according to the form of the act, which was all that the Comptroller is authorised to require.

The committee deem this account objectionable, because they cannot suppose that it was contemplated by the legislature, when they made a specific appropriation of \$2,000 for the same object, that the Revisers would be under the necessity of hiring the services to be performed, and drawing the money to pay for such services out of the treasury, in addition to such appropriation. It will be observed that Mr. Tillinghast charges by the day for one hundred seventy-three days, and three days' extra services, within given dates. Within and inclusive of those dates, it will be found there are not as many days, without also including Sundays. It should be remarked, that the Comptroller, in drawing this warrant, had all the evidence before him which the law requires, and therefore could not with propriety refuse.

WARRANTS Nos. 734 and 1,081.—*Compensation to Canal Appraisers.*

By the Revised Statutes, vol. 1, p. 226, sec. 54, the canal appraisers are entitled to receive three dollars for each day's actual attendance in the discharge of their duties. The charge of services for the former warrant is from 16th July, 1829, to 14th April, 1830, \$549; and for the latter from 1st December, 1829, to 1st June, 1830, 141 days, \$423.

There is no evidence that these services have been rendered: indeed, in this instance and some others, none is required by law. From the nature of the duties of these officers, it is not perceived how they could well be rendered during the winter season. It is, therefore, respectfully suggested, that an amendment of the statute requiring all such accounts to be verified by affidavit or other sufficient evidence, would prove beneficial to the public interest.

WARRANT No. 913.—*Pay of a Member of the Legislature.*

In computing the distance travelled by the Hon. Abel Smith, of North-Castle, in the county of Westchester, at 368 miles, a mistake of 100 miles seems to have intervened, and the warrant is therefore drawn for fifteen dollars too much. This occurred in the certificate of the Speaker of the Assembly.

WARRANTS Nos. 1,206, 1,478, 683, 171.—*For the expenses of the Commissary-General's Department.*

On examining the items of these expenses, charges for forage and keeping of the arsenal horse, to the amount of about one hundred dollars a year, and seventeen dollars for shoeing are included. Of the necessity of keeping such horse, the committee cannot form an opinion, while charges for cartage of all articles to and from the arsenal at New-York regularly appear in the accounts.

The mode of accounting through this department is defective. For instance, the keeper of an arsenal procures repairs of the building, and labor in repairing and cleaning arms: he makes charges in account against the department, in his own favor, and without producing the voucher and receipt of the laborer or the persons who furnish the materials; procures payment from the Commissary-General, who takes his receipt, which is produced to the Comptroller on rendering his account. The committee are not aware of the existence of any abuses by this means; but they may occur, unless a remedy shall be provided.

There appears by the vouchers to be two persons by the name of Gamble, who, or one of whom, charge for services in nearly all the mechanic arts known about an arsenal, in addition to paving and stone-work, while the other receives regular wages at thirty dollars per month.

The committee deem these accounts objectionable in substance as well as in form; but it is proper to remark, that they are in conformity to the laws, so far as the Comptroller has the power to require them to be so.

WARRANTS, Nos. 258, 1,339, 1,522, 217, 1,014 and 668.—*For the contingent expenses of the two Houses of the Legislature and the Court of Errors.*

The moneys drawn by these warrants are disbursed by the clerks of the respective houses, and are regularly accounted for; but in some instances the persons who furnish the articles charge, as appears by the bills rendered, prices which are believed to be above the usual market.

WARRANT No. 145.—*In favor of the Sheriff of Cattaraugus county, for services.*

By a mistake in auditing this account; arising from the obscure manner in which some of the items are stated, \$2.63 is allowed, to which the sheriff is not entitled.

WARRANTS Nos. 169, 170, 202, 210, 1,637.—*For the same object as the last.*

The statute allowed five shillings for summoning constables to attend the courts. The sum of \$5 in gross is charged for this service in some of the accounts with these warrants. This was the usual allowance in the Court of Exchequer, for the like service under the same statute, and in some instances may be too small, and in others too large. The allowance has been made in the Comptroller's office, in pursuance of the established precedent, until it was ascertained that such precedent was not authorised, when it was immediately corrected. In the accounts with the three last warrants, which are for services performed, in part, since the Revised Statutes went into operation, charges of 75 cents for clerk's fees for drawing juries, are included. Those charges are now payable in the several counties, and it is probable were not discovered in the auditing as having accrued during this year. In the account with warrant No. 210 an allowance of \$6.25, and in the account with No. 1,637 an allowance of \$5 too much was made, from the same causes which caused the small error in No. 145.

These accounts are sometimes drawn in great detail, and in other instances nearly in gross, blending the different items of service together.

WARRANTS Nos. 1,501, and 557.—*In favor of Brigade Inspectors, for their compensation.*

In the former it does not appear that returns were made to the Adjutant-General, as required by law, nor in the latter how many regiments, battalions or squadrons there are in the brigade. These accounts are incomplete in those respects; but the necessary information was produced to the Comptroller from the Adjutant-General's office before the payments were made.

WARRANTS Nos. 238, 458, 537, 553, 723, 1,143, 1,208, 1,239, 1,495, 1,496, 1,517, 1,556.—*For the pay of Members of Courts Martial.*

By the Revised Statutes, vol. 1, page 318, sec. 42, the members of a court martial are entitled to \$2 "for each day actually employ-

ed on duty.” There is no evidence required by law to be produced to the Comptroller to enable him to audit these accounts understandingly. In practice it has always been usual for the president of the court, and perhaps the judge-advocate, to certify to the justice of the allowance to be made, and for the Comptroller to pay on such certificate. This is all he can require.

In making up the accounts, charges for the travel of members, at about the rate of twenty miles for \$2, are thus certified; but in some instances \$2 for a single mile—the going of which is charged as for a day’s actual service. If this is an abuse, the remedy lies with the Legislature; and these warrants are noted by the committee for the purpose of drawing to the subject their attention.

In examining this subject, the committee have remarked with some surprise, that the gross expenses of a court martial in the city of New-York, where the members reside usually within a short distance of the place of meeting, are in most instances double the amount of like courts held in the country, where the members travel from thirty to forty miles.

The following copy of an account, certified to the Comptroller in the usual manner and form, may account in part for such discrepancy :—

State of New-York,

To Col. Samuel Stevens, Judge-Advocate, Dr.

9 days’ attendance,.....	\$18 00
And for preparing and engrossing the minutes, drafting and copying subpoenas, and the business of the court, 9 days,.....	18 00
	<hr/>
	\$36 00
	<hr/>

Thus, for a court, sitting nine days, one officer charges for eighteen days’ service.

The moneys drawn by the following warrants, during this year, have not yet been fully accounted for, and the accounts are not closed. The Comptroller is required to draw these warrants by the statutes, upon conditions specified, which have all been complied with. From the nature of the various objects for which they are drawn, in some instances, they could not yet be accounted for,

and in some others, the agents are not required to account before the 1st January, 1831. As these warrants would not, in the usual course, come before the committee for the next year, they are noted here for the purpose of enabling them, with more facility, to examine the vouchers which may be returned, and not for the purpose of censuring the agents who have drawn the moneys.

WARRANT No. 998.—*For Counsel to assist the Attorney-General in the Astor Suits.*

777, 945, 1,141, Construction of roads,
214, Contingent expenses of Indian affairs,
460, Surveys of public land,
941, Apprehension of criminals,
248, Contingent expenses of the government,
1,669, Surveys of canal routes.

In relation to the literature fund, which is under the direction of the Regents of the University, we beg leave to adopt and renew the suggestion to the Legislature of our predecessors.

It was remarked in the report of the Committee last year, that “a large amount of the moneys received into and paid out of the treasury, arises from the canal fund;” and while we unite with that committee in the opinion, “that a more complete and perfect system of accountability and disbursement could not well be devised,” we may be permitted to express a belief that the annual examination and scrutiny of every item of such expenditure, by a committee, in the same manner that this committee are now authorized by law to examine the accounts and vouchers for payments at the treasury, would prove beneficial to the public interests, and tend to inspire greater confidence respecting those disbursements.

While the institution of such an examination has a tendency to sustain the auditing officers, in resisting doubtful and improper demands for expenditures which are almost daily presented, it exercises a salutary influence upon public agents, vested with a discretion in their disbursements, by admonishing them that all their transactions must pass under a final annual review and severe scrutiny, without the hope of escape from public censure by private friendship or personal favoritism, if their accounts are unfair. The Revised Statutes, under which we are appointed, provide that the number of the committee shall not be less than three, nor more than five. Only three have heretofore been appointed, but if the

committee should consist of five members, and the statute be amended so as to authorise and require the examination of the disbursements by the Commissioners of the Canal Fund, Canal Board, the Canal Commissioners, Superintendents, and Agents. By a division of their labors, the whole duty could be performed, and, in our opinion, to the benefit and satisfaction of the public.

We derive much satisfaction in stating, that during our examinations in the Comptroller's and Treasurer's offices, every possible facility has been afforded to us, and from a thorough investigation into the manner in which the affairs of those departments have been administered, considering the nature, amount and variety of business transacted, we have a well grounded confidence that both have been conducted with ability and integrity.

All which is respectfully submitted,

N. S. BENTON,
A. MANN, Jr.
J. B. GOSMAN.

Albany, January, 1830.

IN SENATE,

January 3, 1831.

ANNUAL REPORT

Of the Trustees of the State Library.

The Trustees of the State Library, in obedience to the fourth section of title eight of chapter nine of the first part of the Revised Statutes, submit to the Legislature their

ANNUAL REPORT.

The moneys received by the Trustees of the State Library during the current year, have been the annual appropriation of the year 1830 only, \$1,000 00

To this should be added the balance unexpended in the hands of the treasurer of the Trustees, at the date of the last annual report, 471 60

1,471 60

The expenditures for the year have been :

For books, maps, charts, and bookbinding, ... \$562 78

“ Cleaning the library, book-cases, repairs to book-cases, stoves, and library generally, and for re-arranging the library, and making an entire new catalogue, &c. 153 68

716 46

Leaving in the hands of the treasurer to be expended, .. \$755 14

It will be perceived that the contingent expenses of the Library, paid by the Trustees, during the past year, out of the funds in their hands, is much larger than usual. This has arisen principally from the fact that, in re-arranging the library and the order of the books, it has been found necessary to make material alterations in the con-

struction of all the cases, both to render them sufficiently capacious to contain the books according to the new arrangement, and to render all the books easily accessible, without danger of injury either to them or to the cases ; and from the further fact that it was indispensable to begin the catalogue anew, in order that it might contain a true statement of the books actually in the library and no more, and that it might exhibit them by their appropriate titles, and in an order the most convenient to direct a stranger in his examinations.

These objects, it is believed, have been accomplished ; but the constant employment of an assistant to the Librarian for a considerable time, was the only mean of effecting them. This individual was exclusively devoted to an entire overhauling of the whole library ; and he was directed carefully to examine all the books ; to see if the labels were correct indications of the contents of the volumes ; to note the deficiencies in every sett of books, and to separate and lay out from the library all duplicate volumes and duplicate setts which might be discovered. The consequence of this thorough examination has been to ascertain that many entirely incongruous pamphlets and periodical numbers have been bound into the same volume, and that many of the labels upon these and other volumes have afforded an entirely deceptive index of the matter to be found upon opening the book ; that many duplicate volumes and setts of books have crept into the library, mostly by the erroneous labels upon the volumes, and the erroneous entries of the titles of the works in the catalogue ; that many deficiencies exist in setts of books which were supposed to be complete ; and, in short, that this work has been already too long delayed, and had become indispensable to a perfection of the library, and to its convenient use.

The Trustees flatter themselves that it has now been so thoroughly done, that, with due care on their part and proper vigilance on the part of the librarian, the time is remote when its repetition will be required. And they indulge the hope that the convenience of the new arrangement of the library to the members of the Legislature, and to all others who may be called to use it, will be considered a partial compensation for the expense incurred ; while the defects existing in the setts of books, and which it is one of their principal objects to supply, could in no other manner than by this examination be certainly ascertained.

The principal purchases of books made within the year have been for the law part of the library, and with the design of making that

as full and perfect as possible ; and the amount expended in this way has been less than was contemplated and intended, only because the Trustees have been disappointed in not receiving the importations of such works as are not to be obtained in this country, and as the booksellers had given them encouragement of obtaining from abroad during the year now past. The reason assigned for the failure is, that the lists furnished by the trustees were mislaid or lost, and others have been furnished and sent out, but at too late a period in the fall to have expected a return at this date.

For this reason the dividend from the chancery fund, for the year 1830, has not yet been called for, but it is understood that the fund is able to furnish it, and that it can be had at any time upon the call of the Trustees. If no further disappointment is experienced in obtaining the desired works, it may be expected that all the means at the control of the Trustees will be wanted during the present year, and that the law library will be made, to a considerable extent, perfect ; while it is contemplated, if the funds will allow it, to make valuable additions to the other departments of the institution.

The contingent expenses of the library for stationary and candles, to be paid out of the treasury, is limited by the act of the 20th April, 1829, to fifty dollars. The last annual report showed that only \$23.59, had been drawn from the treasury for these purposes during the year covered by that report, and the sum of \$19.38 only, has met the same expenses for the year 1830. The cost to the treasury of the wood used in the library during the past year, has been \$40.42, a sum much less than the ordinary expense for fuel for the same period of time. Indeed the economy with which the Librarian has managed the contingent expenses of the library, is the best evidence of his faithfulness and attention in his public trust.

The catalogue which has been prepared as before mentioned, and which is required by the law to be furnished annually to the legislature, is annexed to this report, marked A.

The rules and regulations for the government of the library have undergone no alteration since the last report, and are annexed, marked B.

That the Trustees might be able the more perfectly to correct the catalogue, and to compare it with the books in the library as now arranged, they requested the state printer to set it in type and fur-

nish them a printed copy in anticipation that the legislature would order it printed. This he consented to do, and for that reason it is that a printed copy of the new catalogue accompanies this report. The Trustees were the more willingly induced to make this request as it would enable the printer, if so ordered, to lay upon the tables of the members of the legislature, at a very early day, the printed copies of the corrected catalogue, thus contributing to the convenience of those who may be desirous to examine this interesting institution at the commencement of the session.

In obedience to the resolution of the honorable the Assembly, of the 10th April last, the Trustees availed themselves of the earliest opportunity to procure and place in the library "a copy of the American edition of the Posthumous Works of the illustrious Thomas Jefferson."

SILAS WRIGHT, JR.

A. C. FLAGG,

GREENE C. BRONSON,

Trustees of the State Library.

Albany, 4th Jan. 1831.

(A.)

CATALOGUE
OF
BOOKS, MAPS, &c.

BELONGING TO, AND REMAINING IN THE STATE LIBRARY,
JANUARY 1, 1831.

N. B. All the Books enumerated in this Catalogue are bound, and of octavo size, unless otherwise expressly mentioned: Congressional and Legislative Journals will be found arranged under the head of "State Papers;" and Statutes, under "Statute Law."

LAW BOOKS, JOURNALS, &c.

A.

Abbot on Shipping,	1 Vol.
Adams on Ejectment, see "Tillinghast's Adams on Ejectment."	
Addington's Penal Statutes, (fol.)	1 "
Addison's Reports, (Pennsylvania,)	1 "
Aikens' Reports, (Vermont,)	2 "
Alabama Reports,	1 "
Alleyn's Reports, (fol.)	1 "
Ambler's Reports,	1 "
American Chancery Digest,	1 "
American Digest,	4 "
American Jurist,	3 "
American Law Journal,	6 "
Andrews' Reports,	1 "
Angel on Tide-Waters,	1 "
" " Water-Courses,	1 "
Anstruther's Reports,	1 "
Anthon's Nisi Prius Reports,	1 "
Archbold's Civil Pleadings,	1 "
" Forms of Evidence,	1 "
" " " Indictment,	1 "
" Practical Forms,	1 "
" Practice,	2 "
Assize, Book of, see "Book of Assizes."	
Atkyns' Reports,	3 "
Attorney's Companion,	1 "
Azuni's Maritime Law,	2 "

B.

Bacon's Abridgement,	7 Vols.
Ballantine on Limitations,	1 "
" " " by Tillinghast, see "Tillinghast's Ballantine on Limitations."	
Barnardiston's Reports, (fol.)	1 "
Barnes' Notes of Cases,	2 "
Barnewell and Alderson's Reports,	4 "
Barton's Suit in Equity,	1 "
Bay's Reports, (South-Carolina,)	2 "
Bayley on Bills,	1 "
Beawes' Lex Mercatoria, (4to.)	2 "
Beccaria on Crimes,	1 "
Beck's Medical Jurisprudence,	2 "
Bee's Reports, (U. S. District Court, South-Carolina,) ..	1 "
Bentham on Codification,	1 "
" " Government,	1 "
Bentham's Treatise on Judicial Evidence,	1 "
" Théorie des Peines et des Récompenses,	2 "
Bibb's Reports, (Kentucky,)	4 "
Bigelow's Digest of Massachusetts Reports, (old edition,) ..	1 "
Bigelow's Supplement (to his Digest,)	1 "
Binney's Reports, (Pennsylvania,)	6 "
Biven's Digest of Modern Reports, (missing,)	1 "
Blackstone's Commentaries, (by Christian,)	4 "
" (Henry) Reports,	2 "
" (William) "	2 "
Blake's Chancery, (old edition,)	1 "
Book of Assizes, (fol.)	1 "
Booth on Real Actions,	1 "
Bosanquet and Puller's Reports, (4th and 5th volumes cited as "New Reports,")	5 "
Boscawen on Penal Statutes, (12mo.)	1 "
Brackenridge's Law Miscellanies,	1 "
Brayton's Vermont Reports,	1 "
Bridgman's Analytical Digest,	3 "
" Practical Digest,	1 "
Bridgman's Index, see "Bridgman's Analytical Digest."	
Brown's (William) Chancery Reports,	4 "
" (Josiah) Parliamentary Cases,	8 "
Browne's Reports, (Pennsylvania,)	2 "
Brownlow and Goldsborough's Reports, (4to.)	1 "
Bunbury's Reports,	1 "
Burlamaqui's Principles of Law, (Natural and Politic,) ..	2 "
Burn's Digest of Modern Reports,	1 "
" Ecclesiastical Law,	4 "
" Justice,	4 "
Burrows' Reports,	5 "
" Settlement Cases,	1 "

C.

Caines' Cases in Error, (2 vols. in one,)	1	Vol.
" Practice,	1	"
" Reports, (New-York,)	3	"
Call's Reports, (Virginia,)	3	"
Cameron and Norwood's Reports, (North-Carolina,)	1	"
Campbell's Nisi Prius Reports,	4	"
Carey's Reports, (24mo.)	1	"
Carter's Reports, (fol.)	1	"
Carthews' Reports, (fol.)	1	"
Cases in Chancery,	1	"
Cases of Equity,	2	"
Cases Tempore Hardwicke,	1	"
Cases Tempore Hardwicke by Ridgeway, see " Ridge- way's Cases Tempore Hardwicke."		
Cases Tempore Talbot,	1	"
Chancery Rules, (Edition of 1824,)	1	"
" " (Revised by Chancellor Walworth,) ..	1	"
Charlton's Reports, (Georgia,)	1	"
Chase's Trial,	2	"
Chipman's (Daniel) Reports, (Vermont,)	1	"
" (Nathaniel) Reports, (Vermont, 18mo.)	1	"
Chipman on Contracts,	1	"
Chitty's Commercial Law,	1	"
" Criminal Law,	3	"
Chitty on Bills,	1	"
" " Contracts,	1	"
Chitty's Pleadings,	3	"
Christy's Digest of Louisiana Reports,	1	"
City Hall Recorder, (6 vols. in 2,)	2	"
Civil Code of Louisiana, see " Statute Law."		
Clancy's Treatise, (Husband and Wife,)	1	"
Coke on Littleton, (First Institutes,)	3	"
Coke's Entries, (fol.)	1	"
Coke's Institutes, (2d, 3d and 4th,)	4	"
Coke's Reports,	7	"
Coleman and Caines' Cases, (New-York.)	1	"
Collectanea Juridica,	2	"
Commercial Code of France,	1	"
Common Law Reports,	17	"
Comyn on Contracts,	2	"
Comyn's Digest,	8	"
" Reports,	2	"
Connecticut Reports,	6	"
Constitutional Reports of South-Carolina,	2	"
Conversations on the English Constitution,	1	"
Cooper's Justinian,	1	"
" Reports, (Chancery,)	1	"
Corpus Juris Civilis, (4to.)	3	"
Cottu on the Administration of Criminal Justice,	1	"
County and Town Officer,	1	"

Cowen's Reports,	9 Vols.
Cowen's Treatise on Justices' Courts,	1 "
Cowper's Reports,	2 "
Cox's Equity Reports,	2 "
Coxe's Digest of Reports of the United States Courts, ..	1 "
" New-Jersey Reports,	1 "
Cranch's Reports, (Supreme Court U. S.)	9 "
Criminal Trials,	1 "
Croke's Reports, (Elizabeth, James and Charles,)	3 "
Crompton's Practice,	2 "
Crown Circuit Companion,	1 "
Cruise's Digest,	7 "
Cumberland's Law of Nature, (4to)	1 "
Curran's Speeches,	2 "

D.

Dagge on Criminal Law,	3 "
Dallas' Reports,	4 "
Dane's Abridgement,	8 "
Danvers' Abridgement, (fol.)	3 "
Davies' Reports,	1 "
Day's Reports, (Connecticut,)	5 "
Debates on the Constitutional Powers of Congress,	1 "
De Lolme on the English Constitution,	1 "
Desaussure's Chancery Reports, (South-Carolina,)	4 "
Dickens' Reports, (Chancery,)	2 "
Dickinson's Justice of the Peace,	3 "
Dictionary of Quotations, (missing,)	1 "
Digest of Early Chancery Reports, (by Kekewich,)	1 "
Digest of South-Carolina Reports,	1 "
Discussions du Code Napoleon, (4to.)	3 "
Doctors' Commons, ("The Clerk's Instructor in the Ecclesiastical Courts,")	1 "
Domat's Civil Law, (fol.)	2 "
Douglas' Reports,	2 "
Dunlap's Practice,	2 "
Duponceau on the Jurisdiction of the Courts of the United States,	1 "
Durnford and East's Reports,	8 "
Dyer's Reports, (fol.)	1 "

E.

East's Pleas of the Crown,	2 "
" Reports,	16 "
Eden on Injunction,	1 "
Edwards' Reports, (Admiralty,)	1 "
Equity Draftsman,	1 "
Equity Reports, see "Desaussure's Chancery Reports."	
Espinasse's Nisi Prius,	2 "
" Reports, (6 vols. bound in 5,)	5 "
Evans' Collection of Statutes, see "Statute Law."	

F.

Fearne on Remainders,	1	Vol.
Fitzgibbon's Reports, (fol.)	1	"
Fitzherbert's Natura Brevium,	2	"
Fonblanque on Equity,	2	"
Foster's Crown Law,	1	"
Freeman's Reports, (fol.)	1	"
Frederician Code, see "Statute Law."		
Frie's Trial,	1	"

G.

Gallison's Reports, (Circuit Court U. S. 1st Circuit,)....	2	"
Gilbert's Cases in Law and Equity,	1	"
" Equity,	1	"
" Law of Evidence, by Lofft, (4 vols. in 2,)	2	"
" Reports, (fol.)	1	"
Gilmer's Reports, see "Virginia Reports."		
Gordon's Digest of the Laws of the United States,	1	"
Gow on Partnership,	1	"
Graydon's Digest of the Laws of the United States,	2	"
Greenleaf's Reports, (Maine,)	5	"
Griffith's Law Register, (3d and 4th vols.)	2,	"
Grotius de Jure Belli ac Pacis,	1	"

H.

Hale's History of the Common Law,	2	"
" Pleas of the Crown, (fol. Emlyn's edition, 1736,) ..	2	"
" " " " (Wilson's edition, 1800,) ...	2	"
Hall's Digest of Virginia Reports,	1	"
Halstead's Reports, (New-Jersey,)	5	"
Hammond's Digest of Chancery Reports,	1	"
Hammond on Parties,	1	"
Hand's Crown Practice,	1	"
Hardin's Reports, (Kentucky,)	1	"
Hardie's Reports, (Exchequer,)	1	"
Harris and Gill's Reports, (Maryland,)	2	"
Harris and Johnson's Reports, (Maryland,)	7	"
Harris and M'Henry's Reports, (Maryland,)	4	"
Harrison's Chancery Practice, (Edition of 1796,)	2	"
" " " (Edition of 1808, 2 vols.		
bound in one,)	1	"
Hatsell's Precedents of Proceedings in the House of Commons,	3	"
Hawk's Reports, (North-Carolina,)	2	"
Hawkins' Pleas of the Crown,	4	"
Haywood's Reports, (North-Carolina,)	2	"
Hening and Munford's Reports, (Virginia,)	4	"
Hetley's Reports, (fol.)	1	"
Hobart's Reports, (fol.)	1	"
Hoffman's Legal Outlines,	1	"
Hoffman's Practice of Masters in Chancery,	1	"
Holt on Libel,	1	"

Hopkins' Chancery Reports, (New-York,)	1 Vol.
Hughes' Reports, (4to. Kentucky,).....	1 "
Hume on Crimes, (4to.)	2 "
Humphrey on Real Property, see "Observations on the Laws of Real Property."	
Hutton's Reports, (fol.)	1 "

I.

Ingersoll's Digest,	1 "
Institutes of Justinian, see "Cooper's Justinian."	
Institutions Judiciaires,	5 "
Irish Term Reports,	1 "

J.

Jacob's Law Dictionary,	6 "
Jacob and Walker's Reports,	2 "
Jenkias' Centuries of Reports, (fol.)	1 "
Duplicate,	1 "
Jeremy's Equity Jurisdiction,	1 "
Johnson's Cases, (New-York.)	3 "
" Chancery Reports, (New-York,).....	7 "
" Digest, (Old edition,)	1 "
" " (New edition,)	2 "
" Reports, (New-York,)	20 "
Jones on Bailment,	1 "
Jones' (Sir Thomas) Reports, (fol.).....	1 "
Jones' (Sir William) Reports, (fol.)	1 "
Journals, see "State Papers."	
Journal of Jurisprudence,	1 "
Journal of New-York Conventions, see "State Papers."	
Journal of the Proceedings against the Conspirators at New-York, (half bound, 4to.)	1 "
Duplicate,	1 "
Judicial Repository,	1 "
Jurisprudence du Code de Justinian, (4to.)	2 "
Justice's Manual,	1 "
Justinian's Institutes, see "Cooper's Justinian."	

K.

Kames' Principles of Equity, see "Principles of Equity."	
Keble's Reports, (fol.)	3 "
Kelham's Fleta, see "Selden's Fleta."	
Kelyng's Reports,	1 "
Kent's Commentaries,	4 "
Kirby's Reports, (Connecticut,)	1 "
Kyd's Law of Corporations,	2 "
Kyd on Awards,	1 "

L.

Latch's Reports, (fol.)	1 "
Law Grammar,	1 "
Law of Fixtures,	1 "
Law of Patents,	1 "

Lawes on Pleading,	1	Vol.
Laws and Ordinances of the Corporation of New-York, (fol.)	1	"
Leach's Crown Law,	2	"
Lee's Cases, see "Cases Tempore Hardwicke."		
Leonard's Reports, (fol.)	1	"
Levinz's Reports, (fol.)	2	"
Ley's Reports, (fol.)	1	"
Lilly's Abridgement, (fol.)	2	"
" Modern Entries,	2	"
Littell's Reports, (Kentucky,)	5	"
" Selected Cases, (Kentucky,)	1	"
Littleton's Reports, (fol.)	1	"
Duplicate,	1	"
Livermore on Agency,	2	"
Long on Sales,	1	"
Lottery Investigation,	1	"
Lutwyche's Reports, (fol.)	2	"

M.

Mac Nally's Evidence,	1	"
Maddock's Chancery,	2	"
Manning's Digest of Nisi Prius Reports,	1	"
March's Reports,	1	"
Maritime Contracts, (by Pothier,)	1	"
Marshall on Insurance,	2	"
Marshall's English Common Pleas Reports,	2	"
Marshall's Kentucky Reports,	8	"
Martin's Reports, (Louisiana, 1st series,)	12	"
" " (" 2d series,)	4	"
Mason's Reports, (Circuit Court of United States for the 1st Circuit,)	4	"
Massachusetts Reports,	17	"
Mathews on Presumptive Evidence,	1	"
Maule and Selwyn's Reports,	5	"
Maxims in Law and Equity,	1	"
M'Cord's Chancery Reports, (South-Carolina,)	2	"
Merivale's Reports,	3	"
Miller on the Civil Law of England,	1	"
Miller's Inquiry, (on Statute and Criminal Law,)	1	"
Mitford's Pleadings,	1	"
Moder's Reports,	12	"
Molloy de Jure Maritimo,	2	"
Monroe's Reports, (Kentucky,)	1	"
Montagu on Partnership,	2	"
Montagu on Set-off,	1	"
Moor's Reports, (fol.)	1	"
Moore's Digest,	2	"
Morgan's Vade Mecum, (3 vols. bound in 2,)	2	"
Moseley's Reports,	1	"
Moulton's Chancery Practice,	1	"
Mumford's General Index,	1	"
" Reports, (Virginia,)	6	"

Murphey's Reports, (North-Carolina, 1st and 3d vols.) ..	2 Vols.
Duplicate of 3d vol.	1 "

N.

Natural and Politic Law, see "Burlamaqui's Principles of Law."

New-Hampshire Reports,	4 "
Newland's Chancery Practice,	2 "
New Reports, see "Bosanquet and Puller's Reports," 4th and 5th volumes.	
New-York Digest,	2 "
New-York Term Reports, see "Caines' Reports."	
Norris' Peake,	1 "
North-Carolina Law Repository,	3 "
Nott and M'Cord's Reports, (South-Carolina,)	2 "
Noy's Reports, (fol.)	1 "

O.

Observations on the Laws of Real Property, (Humphrey's,) ..	2 "
Office of Executors, (Wentworth's, 12mo.)	1 "
" of Surrogate, (Bridgen's, old edition,)	1 "
Ordonnance de Louis XIV. (4to.)	2 "
Overton's Reports, see "Tennessee Reports."	

P.

Paige's Chancery Reports, (New-York,)	1 "
Paine's Reports, (Circuit Court U. S. 2d Circuit,)	1 "
Paley on Agency,	1 "
Palmer's Reports, (fol.)	1 "
Parker's Reports, (fol.)	1 "
Peake's Law of Evidence, see "Norris' Peake."	
Peere Williams' Reports,	3 "
Pennington's Reports, (New-Jersey,)	2 "
Perkins' Conveyancing, (12mo.)	1 "
Peters' Admiralty Decisions,	2 "
" Reports, (Circuit Court U. S. 3d Circuit,)	1 "
" " (Supreme Court of the United States,) ..	4 "
Petersdorff's Abridgement,	6 "
Philips' Evidence,	2 "
Philips on Insurance,	1 "
Pickering's Reports, (Massachusetts,)	8 "
Plowden's Reports,	2 "
Pollexfen's Reports, (fol.)	1 "
Pothier on Maritime Contracts, see "Maritime Contracts."	
Pothier on Obligations,	2 "
Pothier Traité des Obligations, (12mo.)	23 "
Powell on Devises,	1 "
" on Mortgages,	3 "
" on Powers,	1 "
Preston on Abstracts of Title, (3 vols. in one,)	1 "
" on Estates, (2 vols. in one,)	1 "
" on Legacies,	1 "
Principles of Equity, (by Lord Kames, fol.)	1 "
Puffendorf's Law of Nature and Nations, (fol.)	1 "

R.

Randolph's Reports, (Virginia,)	5 Vols.
Rastell's Entries, (fol.)	1 "
Rawle on the Constitution,	1 "
Rawle's Reports, (Pennsylvania,)	1 "
Raymond's (Lord) Reports,	3 "
Reeve's Domestic Relations,	1 "
Reeve's History of the English Law,	4 "
Regent's Canal Act,	1 "
Reports of Convictions in the Court of General Sessions in the City of New-York, (fol. MS.)	1 "
Reports of the Constitutional Court, (South-Carolina,)...	2 "
Ridgeway's Cases Tempore Hardwicke,	1 "
Ridgeway's Parliamentary Cases,	3 "
Roberts on Frauds,	1 "
" on Fraudulent Conveyances,	1 "
" on Wills,	2 "
Robinson's Admiralty Decisions,	6 "
Rolle's Abridgement, (fol.)	2 "
" Reports, (fol.)	2 "
Root's Reports, (Connecticut,)	2 "
Roper's Law of Husband and Wife,	2 "
Roper on Legacies,	2 "
Rose's Cases in Bankruptcy,	2 "
Rules of the Supreme and Circuit Courts of the U. States, see "United States Court Rules."	
Runnington on Ejectment,	1 "
Rushworth's Historical Collections, (fol.)	8 "
Russell's Chancery Reports,	1 "
Duplicate,	1 "
Russell on Crimes,	2 "
Russell and Ryan's Crown Cases reserved,	1 "

S.

Salkeld's Reports,	3 "
Sampson on Common Law,	1 "
Saunders on Pleading and Evidence,	2 "
" Reports,	3 "
Savile's Reports, (fol.)	1 "
Sayer's Reports, (fol.)	1 "
Schoales and Lefroy's Reports, (Irish Chancery,)	2 "
Secret Debates in Convention, on the Constitution of the U. States, see "State Papers."	
Selden's Fleta,	1 "
Select Cases, (New-York,)	1 "
Sellon's Practice,	2 "
Selwyn's Nisi Prius, see "Wheaton's Selwyn."	
Sergeant's Constitutional Law,	1 "
Sergeant and Rawle's Reports, (Pennsylvania,) ..	17 "
Sheppard's Touchstone,	2 "
Shower's Reports,	2 "
Siderfin's Reports, (fol.)	2 "

Southard's Reports (New-Jersey,)	2	Vols.
Spirit of Laws, (Montesquieu's)	2	"
Starkie's Criminal Pleadings,	1	"
" Evidence,	3	"
" Reports,	2	"
Starkie on Slander,	1	"
State Trials,	23	"
Statutes at Large, see "Statute Law,"		
Story's Pleadings,	1	"
Strange's Reports,	2	"
Stubb's Crown Circuit Companion,	1	"
Style's Reports, (fol.)	1	"
Sugden on Powers,	1	"
" Vendors,	1	"
Supreme Court Rules, (New-York, edition of 1818,) . . .	1	"
" " " (" " 1830,) . . .	1	"
Swanston's Reports, (Chancery,)	3	"
Swift's Digest of the Laws of Connecticut,	2	"
Swinburne on Wills,	3	"
Sydney on Government, (fol.)	1	"

T.

Talbot's Cases, see "Cases Tempore Talbot,"		
Taunton's Reports,	8	"
Taylor's Reports, (North Carolina,)	1	"
Tennessee Reports, (Overton's,)	1	"
Term Reports, see "Durnford and East's Reports."		
The Jurist or Quarterly Journal of Jurisprudence,	1	"
Tidd's Practice,	2	"
Tillinghast's Adams on Ejectment,	1	"
" Ballantine on Limitations,	1	"
" Forms,	1	"
Toller's Law of Executors,	1	"
Tomlins' Digested Index to the Crown Law,	1	"
" " " " " " (Duplicate,)	1	"
" Election Cases,	1	"
Tothill's Chancery, (81 mo.)	1	"
Traites de Legislation Civile and Penale,	3	"
Tremaine's Pleas of the Crown, (fol.)	1	"
Trials per Pais,	1	"
Turner's Chancery Practice,	2	"
Tyler's Reports, (Vermont,)	2	"
Tytler's Military Law, (12 mo)	1	"

U.

United States Court Rules,	1	"
" " Law Journal,	1	"

V.

Vattel's Law of Nations,	1	"
Vaughan's Reports, (fol.)	1	"
Vermont Reports, (by the Judges,)	2	"
Vernon's Reports, (fol.)	2	"

Vesey Junior's Reports, (Chancery,)	20	Vols.
“ “ “ Supplement (by Hovenden,) ...	2	“
“ “ and Beame's Reports, (Chancery, 3 vols. bound in 2,)	2	“
Vesey Senior's Reports, (Chancery,)	2	“
Viner's Abridgment,	24	“
“ “ Supplement,	4	“
Virginia Cases, (1st vol. by Brockenbrough and Holmes; 2d vol. by	2	“
Virginia Reports, (Gilmer's,)	1	“

W.

Ward's Law of Nations,	2	“
Washington's Reports, (Virginia,)	2	“
“ Circuit Court Reports, (3d Circuit of the United States,)	4	“
Watson on Partnership,	1	“
Wendell's Reports, (New-York,)	4	“
Wentworth's Pleadings,	10	“
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5. Dr. Hosack's Observations on Cruritis, or Phleg- masia Dolens.	

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Of John Adams,	1
John Quincy Adams,	1
John C. Calhoun,	1
Henry Clay,	1
William H. Crawford,	1
Andrew Jackson,	1
" (full length,)	1
General La Fayette,	1
" (full length,)	2
Commodore McDonough,	1
Commodore Perry,	1
General Washington,	1

One Bust of General Jackson.

One Monumental Engraving of the late Governor De Witt Clinton.

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(B.)

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ORDAINED AND ESTABLISHED BY THE
TRUSTEES OF THE NEW-YORK STATE LIBRARY,
PURSUANT TO AUTHORITY GIVEN THEM BY LAW.

1. During the Session of the Legislature, or of the Senate only, and during the sitting of the Court of Errors, of the Court of Chancery, and of the Supreme Court, the Library shall be open, from the hour of nine in the morning, until the hour of nine in the evening.

2. The Library shall also be open at such other times as any one trustee may request, for the benefit of visitors.

3. Whenever the Library is open, the Librarian shall attend the same, and shall carefully preserve the books, maps and charts therein, from being injured or taken away.

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No. 8.

MEMBERS OF THE SENATE,

WITH THEIR RESPECTIVE

Districts, Classification, County and Nearest Post-Office.

FIFTY-FOURTH SESSION, 1881.

Hon. EDWARD P. LIVINGSTON, Lieut. Gov. & President.

COLUMBIA, CLERMONT.

DISTRICTS.	COUNTY.	NEAREST POST-OFF.
First District.		
John I. Schenck.....	Queens,.....	North-Hempstead.
Stephen Allen,.....	City and Co. of N.Y.	City of New-York.
Alpheus Sherman,	do. do.	do.
Jonathan S. Conklin,...	Suffolk,.....	East-Hampton.
Second District.		
Walker Todd,.....	Putnam,.....	Carmel.
Samuel Rexford,.....	Delaware,.....	Sidney Plains.
Nathaniel P. Tallmadge,	Dutchess,.....	Poughkeepsie.
David M. Westcott,....	Orange,.....	Goshen.
Third District.		
Moses Warren,.....	Rensselaer,.....	Hosick.
Lewis Eaton,.....	Schenectady,.....	Lockport.
William Deitz,.....	Schoharie,.....	Schoharie C. H.
Herman I. Quackenboss,	Greene,.....	East-Hunter.
Fourth District.		
Reuben Sanford,.....	Essex,.....	Wilmington.
John McLean, Jun. ...	Washington,.....	Salem.
Isaac Gere,.....	Saratoga,.....	North-Galway.
William I. Dodge,....	Montgomery,.....	Johnstown.
Fifth District.		
Nathan S. Benton,....	Herkimer,.....	Little Falls.
William H. Maynard,..	Oneida,.....	Utica.
Alvin Bronson,.....	Oswego,.....	Oswego.
Henry A. Foster,.....	Oneida,.....	Rome.
Sixth District.		
Grattan H. Wheeler,...	Steuben,.....	Wheeler.
John F. Hubbard,.....	Chemango,.....	Norwich.
Levi Beardsley,.....	Otsego,.....	Cherry-Valley.
Charles W. Lynde,....	Cortland,.....	Homer.
Seventh District,....		
George B. Throop,....	Cayuga,.....	Auburn.
Hiram F. Mather,	Onondaga,.....	Elbridge.
Thomas Armstrong,....	Wayne,.....	Butler.
William H. Seward,....	Cayuga,.....	Auburn.
Eighth District.		
Timothy H. Porter,....	Cattaraugus,.....	Olean.
Philo C. Fuller,.....	Livingston,.....	Geneseo.
Albert H. Tracy,.....	Erie,.....	Buffalo.
Trumbull Cary,.....	Genesee,.....	Batavia.

No. 9.

MEMBERS AND OFFICERS COMPOSING THE SENATE OF THE STATE OF NEW-YORK, WITH THEIR RESPECTIVE *Districts, Classes, and Places of Residence.* FIFTY-FOURTH SESSION, 1831.

Hon. EDWARD P. LIVINGSTON, President, Eagle Tavern.

NAMES.	Dis.	CLASS.	PLACE OF RESIDENCE.
Stephen Allen,.....	1	second,	Eagle Tavern.
Thomas Armstrong,....	7	third,	do.
Levi Beardsley,.....	6	third,	American Hotel.
Nathaniel S. Benton,...	5	first,	Mrs. Rockwell's Mansion-House
Alvin Bronson,.....	5	third,	American Hotel.
Trumbull Cary,.....	8	fourth,	Mott's, North Pearl-street.
Jonathan S. Conklin,...	1	fourth,	Merchants' Hotel.
William Deitz,.....	3	third,	Gourlay's, 89 Washington-st.
William I. Dodge,.....	4	fourth,	Adelphi Hotel.
Lewis Eaton,.....	3	second,	Eagle Tavern.
Henry A. Foster,.....	5	fourth,	Adelphi Hotel.
Philo C. Fuller,.....	8	second,	American Hotel.
Isaac Gere,.....	4	third,	Gourlay's, 89 Washington-st.
John F. Hubbard,.....	6	second,	Eagle Tavern.
Charles W. Lynde,....	6	fourth,	Bement's Hotel.
Hiram F. Mather,	7	second,	National and Columbian Hotel.
William H. Maynard,..	5	second,	Mott's, North Pearl-street.
John McLean, Jun. ...	4	second,	City Hotel.
Timothy H. Porter,....	8	first,	
Herman I. Quackenboss,	3	fourth,	Bement's Hotel.
Samuel Rexford,.....	2	second,	National and Columbian Hotel.
Reuben Sanford,.....	4	first,	do.
John I. Schenck.....	1	first,	
William H. Seward,....	7	fourth,	Eagle Tavern.
Alpheus Sherman,	1	third,	Miss Lewis', State-street.
Nathaniel P. Tallmadge,	2	third,	do.
George B. Throop,.....	7	first,	American Hotel.
Walker Todd,.....	2	first,	National and Columbian Hotel.
Albert H. Tracy,.....	8	third,	Mott's, North Pearl-street.
Moses Warren,.....	3	first,	Adelphi Hotel.
David M. Westcott,....	2	fourth,	National and Columbian Hotel.
Grattan H. Wheeler,...	6	first,	do.

JOHN F. BACON, Clerk, Office 64 State-street.

THOMAS M. BURT, Deputy Clerk, Dove-street.

JAMES LIVINGSTON, Sergeant-at-Arms, at Mrs. Rockwell's Mansion-House.

JAMES D. WASSON, Door-keeper, No. 22 La Fayette-street.

IN SENATE,

January 18, 1831.

REPORT

Of the Commissioners of the Land-Office, on the bill entitled "An act directing the sale to John Gregg of 250 acres of land, in the New-Stockbridge or Oneida Reservation."

The Commissioners of the Land-Office, on the bill entitled "An act directing the sale to John Gregg, of two hundred and fifty acres of land, in the New-Stockbridge or Oneida reservation," referred to them by the honorable the Senate,

RESPECTFULLY REPORT :

That they perceive nothing in the first section of the bill that requires amendment or alteration, except the manner in which the appraisement of the land is directed to be made. The act, chap. 29, passed February 11, 1829, as well as the act, chap. 36, passed March 17, 1825, direct *the Commissioners of the Land-Office* to cause the lands that may be purchased of the Indians to be appraised. In pursuance of the first mentioned act, the Oneida Indians have ceded to the State a tract of 2,352 acres of land along the south side of the Seneca turnpike road. This has been surveyed and appraised as directed by the act; of which tract, a part, containing 600 acres, was paid for, and has been sold. The residue remains to be paid for, according to the appraisement already made, whenever the chiefs of that tribe shall signify their readiness to abandon it and make a surrender thereof to the State. This will probably afford the first op-

portunity for the petitioner to avail himself of the provisions of the bill, should it become a law; the second section should therefore be modified with a view to this circumstance.

Respectfully submitted,

SIMEON DE WITT, *Sur. Gen.*
SILAS WRIGHT, JR. *Comptroller.*
A. C. FLAGG, *Secretary.*

January 17, 1831.

IN SENATE,

January 18, 1831.

REPORT

Of the Comptroller, relative to Clerk hire.

STATE OF NEW-YORK, }
Comptroller's Office. }

The Comptroller, in obedience to Section 10, Title 1, Chapter 9, of the First Part of the Revised Statutes,

RESPECTFULLY REPORTS :

That the names of the several persons employed as clerks in his office, at any time during the year 1830, with the period of time each person was so employed, and the amount of compensation paid to each for his services, are as follows, to wit;

Ebenezer Watson,	the whole year—salary,	.....	\$800 00
William Beatty,	do	do	750 00
John Nugent,	do	do	600 00
Homer R. Phelps,	do	do	650 00
Louis De Witt,	do	do	500 00
George W. Newell,	do	do	560 00
John T. Vernor,	do	do	520 00
James Wilson,	do	do	600 00
John Cuyler,	do	do	400 00
Charles Bryan,	do	do	480 00
Robert Rusk,	do	do	400 00
Isaiah L. Weaver,	do	do	150 00

Showing an amount of annual salaries now continuing, of \$6,410 00
In addition to these, there was paid to Jonathan E.

Robinson, junior, a salary, at the rate of \$480 per annum,
from the 1st January to the 28th April, when he left
the office,..... 158 14

Amount carried forward,

Amount brought forward, \$
and after the tax sale, in April and May last, in preparing the sales books, in keeping them posted up during the sale, and in making the certificates for the purchasers, and closing the books after the sale, to the following named clerks, the sums set opposite to their names respectively, to wit :

To James Wilson,	\$40 00	
“ Homer R. Phelps,	40 00	
“ John Nugent,	40 00	
“ Louis De Witt,	40 00	
“ Charles Bryan,	40 00	
“ John T. Verner,	36 00	
“ John Cuyler,	35 00	
		<hr/>
		\$271 00

There has been also paid to Thomas M. Burt, an extra clerk, employed to arrange the accounts between this State and the United States, and to make the necessary abstracts of the vouchers and evidences of the several claims and charges, pursuant to the Resolution of the Senate and Assembly, of the 29th March last, in which service he was employed one month,..... 50 00

Making the whole payments for clerk hire for the office, during the year 1830, \$6,889 14

The permanent appropriation for clerk hire for the comptroller's office is..... \$6,000 00

In addition to this, there was appropriated by the 17th section, of chap. 334, of 1830,..... 1,250 00

Total appropriations for the year 1830, \$7,250 00
Deduct the amount of payments as above, 6,889 14

And there will remain of the appropriations, unexpended, \$360 86

It will be perceived, that one clerk left the office in April last, and that his place has not yet been supplied. The hope is now indulged, that it will not be necessary to supply that place during the present year.

Alterations, small in amount, have been made in the salaries of two of the clerks, because it was believed that a fair rule of equalization, required it, and the salary of a third has been considerably raised, in consequence of having added to his duties, by contract, the task of cleaning the office desks, cases, books and papers, and of making fires in the stoves, when the weather requires them, at such an hour as to have the rooms warmed and ready for business, at the commencement of office hours. These services have been heretofore charged alternately upon the clerks, and it was found that a more thorough cleansing of the office from dust, than could be performed by a hasty sweeping of the rooms in the morning, had become indispensable to the preservation of the books, papers, maps, &c. which were rapidly decaying for want of this care. In the cold season also, it was often true, that the rooms were not warmed, so as to enable the clerks to work at their desks, until after the time fixed for the commencement of business, and that in this way more time was lost than would equal the compensation which would induce one individual to assume both the duties of sweeping and dusting the office, and making the fires.

This induced the trial of such an arrangement, and the experience already derived has perfectly satisfied the Comptroller, that the money thus paid, is as well and as profitably expended for the public, as any part of that fund entrusted to him, to supply his office with clerks.

Respectfully submitted,

SILAS WRIGHT, JR.

Comptroller.

Dated Albany, 17th January, 1831.

IN SENATE,

January 19, 1831.

MESSAGE

From the Governor, transmitting a letter of the Special Counsel, concerning the special circuit court and court of oyer and terminer, in the county of Niagara.

TO THE LEGISLATURE.

GENTLEMEN—

I have received official notice, that the special circuit court, and court of oyer and terminer, in the county of Niagara, which was adjourned over to the first Monday in January instant, has ceased. It was intended to have had that court adjourned until the second Monday in February next, when one of the justices of the supreme court would be at leisure to hold it, according to the design of the Legislature; and an arrangement had been made with Judge Marcy to that effect. The letter of the Special Counsel addressed to me, accompanied by the letter, which he received from Judge Gardner, transmitted to you herewith, will explain the causes of the failure. The motives which induced the Legislature originally to provide for a special court, still exist with unabated force, and there is now superadded to them, considerations of public interest, arising from preparations for the court which was expected to be held on the second Monday in February. The existing laws, do not, in my opinion, confer sufficient power upon the supreme court to meet the necessities of the case.

I do therefore recommend that a law be passed, reviving the provisions of the act of April 17, 1830, so far as to enable the court to

be held on the second Monday of February next, and to be continued by adjournment. The manifest propriety of giving time for both parties to prepare for trial, will, I trust, induce the Legislature to act in this matter without delay.

E. T. THROOP.

Albany, January 18, 1831.

Communication of the Special Counsel.

Pompey, January 14, 1831.

DEAR SIR—

I enclose herewith three letters from Judge Gardner, being all that I have received from him. There seems to have been some misunderstanding between us which I very much regret. It seems that he had got the impression that the adjourned circuit was fixed for the first Monday of January; which impression was probably the cause of his leaving home so as not to have received the communications I addressed to him from Albany, the moment I had obtained Judge Marcy's consent to hold the circuit, and in season to have reached him at Rochester in time to have gone out and adjourned the court. From his last letter, I suppose it certain, that the court will not have been adjourned over, and of course must fail, unless we take one of two courses. Either procure an order of the Chief Justice, under the stat. 2 Revised laws, p. 204, sec. 24, or a special act, appointing a circuit for the second Monday of February. The objections to the former course, which have occurred to me in the short time that I have had to reflect on the subject, are these—A question may possibly arise, whether the section referred to is intended to provide for the failure of such a special court as this; a question which would arise after trial. And the question would be, whether the court, held under such appointment of the Chief Justice, would have power to adjourn, should imperious circumstances render it indispensable. I don't know that there can be a serious doubt on these questions, but an apprehension of either as a possible consequence, would render it advisable to pursue a safe course if practicable. Upon the whole, I submit to your consideration the proper course to be observed. Should you incline to an appointment by the Chief Justice, I would wish it made promptly and for the second Monday of February. But perhaps it would not be prudent to take this course, unless upon due advisement, it should be thought safe. It might be prudent to have the opinion of the Attorney-General on this subject. Should you incline to the course of obtaining a special act, I would then wish your Excellency to refer the matter to the Legislature in a manner to command their prompt attention.

Mr. Gardner's last letter mentions one circumstance before unknown to me, as to the objections to his trying the indictments in Monroe, namely—that he was district-attorney on one or both of these cases. So that the necessity of obtaining another judge for that circuit, would seem to be indispensable.

Very respectfully, I am sir,

Your Excellency's ob't ser'vt.

VICTORY BIRDSEYE,

Special Counsel.

His Ex. ENOS T. THROOP.

Letter from Judge Gardner to the Special Counsel.

Manlius, 11 January, 1831.

DEAR SIR—

I have this moment finished the perusal of your report. You remark that you expect me to adjourn the Niagara circuit. I regret extremely that there should have been any misunderstanding on this subject. When you wrote me upon the subject of Judge Moseley's holding the circuit, and requesting me to adjourn it to some day to be fixed by Judge Moseley and yourself, I replied that I would attend for that purpose, and requested you to inform me by letter, by an early day, of the time agreed upon, as I contemplated a journey to the east. I had the impression, which has continued until I saw your report, that Judge Marcy adjourned the circuit until the *first* Monday of January. I remained at Rochester until the first day of January, and receiving no communication from you, I supposed that some arrangement had been made, by which the circuit was to be held at the time to which it then stood adjourned. My own misapprehension as to the time, and no reply having been received to my letter, are the causes of this unpleasant mistake. I regret its occurrence the more as it may delay you in the discharge of duties already sufficiently embarrassing.

A special act of the legislature may of course be procured fixing the circuit in February. And perhaps this may be the only inconvenience resulting from this error.

I observe your report is dated at Albany. I have thought it probable that you might have been there when I wrote you, and directed my letter to you at Pompey.

In relation to the Monroe circuit, should you be able to procure the attendance of a judge, it would not be necessary that he should reach Rochester until late in the second week, when your causes could proceed without interruption. You are aware that I was district attorney when the bills were found in that county, and my name is attached to one, if not both of them, in that character. There would be an obvious impropriety in my presiding at such trial, independent of the considerations I suggested to you in my former letter.

Yours, very respectfully,

A. GARDNER.

VICTORY BIRDSEYE, Esq.

No. 13.

IN SENATE.

January 18, 1831.

ANNUAL REPORT

**Of Lewis Warner, an Inspector of Sole Leather, for
the county of Orleans.**

To the Honourable the Legislature of the State of New-York.

Lewis Warner, inspector of sole leather of the county of Orleans, has inspected leather, ending on the first day of January, 1831, eighteen hundred and twenty-two sides of leather. The amount is seventy-two dollars and eighty-eight cents; the qualities as follows;

Best, four hundred sides; Good, eleven hundred twenty-two; Damaged, two hundred fifty-four; Bad, forty-six.

LEWIS WARNER, Jun.

Dated Albion, January, 1831.

IN SENATE,

January 22, 1831.

REPORT

Of the select Committee, to whom was referred the
Memorial of John Drake and others.

Mr. Allen, from the select committee, to whom was referred the memorial of John Drake and others, inhabitants of the town of Westfield and Southfield, in the county of Richmond,

REPORT AS FOLLOWS, TO WIT:

That it appears by the memorial referred to the committee, and from the personal averment of one of the memorialists, that they are extensively engaged in the business of fishing for oysters; have a large amount of capital invested in said business, and depend upon it, principally, for the support and maintenance of their families. They complain, that while their fellow-citizens of Northfield and Castleton, are permitted to lay down their oysters on the shores of those towns, in order that they may be refreshed and prepared for market, they are precluded from the privilege by an act of the legislature passed in 1813.

This act will be found in the third volume of the Revised Statutes, page 318, entitled, "An act relative to the fishery in certain waters;" the eleventh section of which declares, "that it shall not be lawful for any person to stake off any oyster bed on the west or south side of Staten Island, or to prevent or intercept any person from taking or carrying off oysters from any such bed lying to the west or south of said Island, under the penalty of *twenty-five dollars* for every such offence, to be recovered with costs of suit, by any person suing for the same, before any justice of the peace."

The committee are informed, that the place always selected as the most suitable for planting or lying down oyster beds, is between

high and low water mark, and why the memorialists should be deprived of this privilege, while it is not denied to the inhabitants of the other towns of the county; is not very clear. The only reason which has come to the knowledge of the committee is, that at the time the act was passed, there were beds of oysters lying some distance from the shore on the westerly side of the county, and that difficulties arose between those who were fishing for them, and others, who either owned the land bounded by the water, or who had planted artificial beds in the vicinity of the natural ones. It appears however, that now, and for several years past, the oysters on those natural beds have disappeared, or nearly so, and if the reasons above stated are those which authorised the unequal act of 1813, the cause has disappeared, while the hardship complained of is still permitted to exist.

The results of the act, as the committee are informed, has been productive of much contention and ill will in the county, and in some instances, of material loss to that portion of the inhabitants upon whom the prohibition operated. Large quantities of oysters, planted by those who believed they had a natural right to deposit their property on the shores of the towns in which they resided, have been depredated upon, and carried off, to the amount of some thousand of dollars in value, and when suits were commenced for a redress of the grievance, the depredators plead the act of the legislature, and the plaintiffs were nonsuited by the court.

A law operating so partially as the one under consideration ought not to continue, unless strong and cogent reasons can be urged in its favour. None such has been shewn to the committee, and they therefore believe, that whatever might have been the inducement for the act, at the time of its passage, there is none to warrant its continuance; but, as disputes and differences may arise between the parties engaged in the oyster business, relative to the occupation and use of the places most suitable for planting them in beds, the committee have concluded to recommend the passage of an act, authorising the judges of the court of common pleas, and the supervisors of the county, to regulate the lying down and taking up of oysters, and to repeal that part of the law of 1813 containing the prohibition so justly complained of by the memorialists; and they have directed their chairman to ask leave to introduce the same.

IN SENATE,

January 24, 1831.

ANNUAL REPORT

Of the Inspectors of the State Prison at Auburn.

To the Honorable the Legislature of the State of New-York.

The Inspectors of the State Prison at Auburn,

RESPECTFULLY REPORT:

That the expenditures for the year ending 31st October, 1830, for the general support and repairs of the prison, (including the amount paid to discharged convicts,) as appears by vouchers rendered to the Comptroller, amounted to.....\$36,226 42

During the same period there has been received from prison sources, and from visitors.....\$37,783 23

To this must be added the amount in the hands

of the agent, 31st October, 1829, 3,304 98

—————41,088 21

—————
\$4,861 79
—————

Leaving a balance in the hands of the agent 31st October,

1830,\$4,861 79

The earnings of the convicts for the year ending 31st October, 1830, as charged to the contractors, amounted to \$40,545.68, which left a balance in favor of the prison, over and above the expenditures of the last year, of \$4,319 .26.

During the past year, besides the ordinary repairs, there has been built within the prison yard 110 feet of additional work shops, and nearly 5,000 lbs. of new cast iron shafts, with their necessary fix-

tures, have been purchased for the purpose of extending the mechanical operations connected with the water power.

It will be recollected that we stated in our last report, that considerable expenditures would yet be necessary fully to repair the damage done to the north wing of the prison, by the fire in the fall of 1828. These repairs were completed in the early part of the last summer by removing the damaged parts or fragments of stone, and by placing new ones in their stead, in such a manner as not to injure the appearance or strength of the building. The expense of materials for these repairs is included in the above sum of \$36,226.42.

On the first day of January, 1830, there were 639 convicts in prison, and on the first day of the present year 620, (Document No. 4,) being a decrease of 19 the past year, owing to a reduction of this prison district.

It will be recollected that until April, 1829, convicts were received at this prison from six of the eight senate districts, and until 1st January, 1830, from five, and from that time until February, from four.

In February, his Excellency Governor Throop set off still more territory to the prison at Mount-Pleasant, which left a little more than three of the eight senate districts from which we are receiving convicts.

The number of convicts still exceeds the number of solitary cells. The excess of male convicts over the five hundred and fifty cells in the north wing, are necessarily confined, as stated in our last report, in the large cells of the south wing; and for the greater part of the year it has been found necessary to occupy from ten to twenty-five of these cells with two convicts in each. This has been attended not only with great inconvenience and increased expense, but with serious evils as it regards the order and discipline of the institution.

Should this prison district be confined to its present limits, these evils would probably be obviated in the course of a year or two, by the gradual decrease of the number of convicts. But if the rapid increase at Mount-Pleasant should render it necessary to enlarge this district, it will then become a question of importance, whether the south wing of this prison should not be altered so as to admit of the separate confinement of an additional number of convicts.

It is believed that this might be done at an expense very considerably less than that of erecting an entire new building.

A great part of this wing is in its present state entirely useless, and the remainder so ill adapted to the purpose as to be used only from necessity. The interior might be removed and a new block of 150 or 160 cells constructed, and still sufficient space be left for the mess room, kitchen, wash room, chapel, and the necessary store rooms.

It may be proper here to remark, that we have had no fund from the treasury to defray any of the expenses for the past year, and it is believed by the agent, that the funds at his command, with the earnings of the convicts, will enable him to meet the ordinary expenses for the present year, without any aid from the legislature for that purpose.

During the past year 114 convicts have been received, (Document No. 1,) 77 have been discharged by expiration of sentence, and 18 have died, (Document No. 2,) and 36 have been pardoned, (Document No. 3.)

This number of deaths, though unusual for our prison, is not to be attributed to the prevalence of any particular disease among the convicts, and will, we think, be satisfactorily accounted for by a reference to the accompanying report of the physician, (Document No. 5.)

In conformity with a law passed at the last session of the legislature, two of the lads spoken of in our last report have been removed to the house of refuge in the city of New-York.

In relation to the Sunday school which has been in operation in this prison for the last four or five years, for the benefit of the young and illiterate portion of the convicts, we quote from the minutes of the resident chaplain the following statement, which will show both the need and the utility of the system of instruction pursued in this institution.

“The whole number received in the school since its commencement is something more than three hundred; of these it is known that eighty-five commenced with the alphabet, probably some more; a large number could read only in the *abs* or easy words of one or two syllables; one third perhaps in easy reading lessons by spelling some of the words, and a few intelligibly in the testament. All these

with the exception of those who have been in but a short time, have been taught to read well ; nearly two hundred of them have acquired a decent hand in the writing class ; and about one hundred and twenty have been thoroughly instructed in the four ground rules of arithmetic."

Until within the last year the benevolent and highly useful labors of the Massachusetts prison discipline society, in introducing the Auburn system of discipline into the prisons of other states, were impeded by the burthen of supporting a resident chaplain in the institution which they recommend as a model for imitation. This was justly deemed discreditable to the state ; we are therefore gratified to know that in accordance with the suggestion in our last report, the legislature at the last session authorised the annual payment of \$250 from the funds of the prison for the support of a resident chaplain, which in a great measure relieves that society, and places the burden where it ought to rest.

It is but justice to the present officers of the prison to remark in conclusion, that the high character of the institution as it regards its discipline and general management, has been well sustained during the past year, in every department which admits of the application of its wholesome rules of government. We use this qualification because there is one department in which no salutary discipline ever was or ever can be exercised. It is hardly necessary to say we refer to that of the female convicts. This remains a foul blot upon the fair fame of the institution, and a standing reproach to a state that justly boasts of the superiority of its penitentiary system. The increase of the number in this department has aggravated the evil to such a degree as to justify the language of loud and repeated remonstrance.

All which is respectfully submitted.

E. WILLIAMS,
G. POWERS,
WALTER WEED,
HORACE HILLS,
J. H. HARDENBURGH.

INSPECTORS' OFFICE,
State Prison, Auburn, }
January 14, 1831.

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New	52
Conr	
Mass	
Irela	49
Vern	11
Engl	
Cans	

December

of Sent

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December, 1880.

<i>of Sentence.</i>		<i>Remarks.</i>
.....	1	White females, 11
.....	28	Negro " 1
.....	11	Second conviction, 9
.....	40	
.....	5	
.....	20	
.....	5	
.....	2	
.....	1	
.....	1	
114		

1527, ... / October 14, 1527, ... / October 14, 1527, ... /

5, 1827,	October 3,
14, do	December 15,
23, 1828, .....	.....
16, 1820, .....	.....
15, 1828,	December 16,
17, 1827, .....	.....
.....	May 27.
.....	March 25.

[S. No. 15.]



RECEIVED
JAN 11 1829

1991

31st December, 1830.

Dated.	Term of service.						Remarks.
.....	6	years,	2	months,	21	days,	
.....	5	"	10	"	26	"	
er 30,	3	"	8	"	13	"	
er 22,	3	"	7	"	13	"	
18, ..	3	"	4	"	17	"	
.....	1	"	11	"	25	"	
.....	1	"	7	"	25	"	
.....	1	"	5	"	18	"	
.....							
3, ...			11	"	29	"	
.....	6	"	11	"	21	"	
18, ..	2	"	1	"	8	"	
19, ..	3	"	0	"	28	"	
.....			11	"	19	"	
.....	.....						Sent to House of Refuge.
.....	.....						do do
18, ...	5	"	10	"	12	"	
.....			3	"	9	"	
.....	7	"	8	"	3	"	
er 22,	4	"	5	"			
27, ..	8	"	1	"	13	"	
.....	2	"	3	"			
19, ..	1	"	4	"	1	"	
18, ..	1	"	1	"	16	"	
.....	6	"	11	"			
27, ..	6	"	9	"	3	"	
28, ..	4	"	7	"	28	"	
5, ...	1	"	0	"	23	"	
.....			5	"	2	"	
18, ..	8	"					
.....	1	"	1	"	25	"	
.....			9	"	3	"	
.....	7	"	9	"	8	"	
18, ..	7	"	0	"	9	"	
er 8, .	4	"	11	"	23	"	
er 9, .	4	"	10	"	5	"	
er 13,			7	"	15	"	

[S. No. 15.]

(No. V.)

To the Inspectors of the Auburn State Prison :

GENTLEMEN,—

The average number of hospital cases varies not materially from last season. There has been an increased number of deaths, but from causes foreign to the prison, with few exceptions. As it will be observed that of the whole number of fatal cases, there were but two that entered the prison healthy.

The hospital cases per day for each month is as follows :

January	6	May	7	September	9
February	7	June	8	October	6
March	8	July	6	November	6
April	9	August	7	December	6

Deaths as follows :

Names.	Age.	Disease.	Time of death.	State of health when rec'd.
James Miller,.....	18	Consumption,.....	January 2	Diseased
James Johnson,....	26	Consumption,.....	" 9	"
Michael McCarty,..	35	Consumption,.....	Feb. 9	"
Roswell Winchell,..	33	Consumption,.....	March 24	"
Daniel Hyde,.....	26	Consumption,.....	April 19	"
John Black,	48	Accidental injury, ..	" 22	"
James Murphy,	39	Consumption,.....	May 29	"
Harriet Stortts,	33	Chronic infl'n. stom.	" 27	"
Diana Jackson,.....	32	Peritoneal inflama'n.	April 22	Healthy
James Schermerhorn	51	Scrofula,.....	June 14	Diseased
Benj. Woodbury,...	61	Consumption,.....	June 23	"
Jacob Vosburgh, ...	45	Consumption,.....	July 15	"
Charles Farland, ...	35	Consumption,.....	" 17	"
James Nelson,	32	Consumption,.....	" 19	Healthy
Benjamin Smith, ...	45	Consumption,.....	August 30	Diseased
Wm. H. Ludlow,...	41	Debility,.....	" 31	"
A. Thompson,	40	Consumption,.....	Nov. 19	"
Charles Gardner,...	41	Consumption,.....	" 26	"

JOHN GEORGE MORGAN,
Visiting Physician and Surgeon.

January 1st, 1831.

(VI.)

INVENTORY

*Of the property belonging to the State Prison at Auburn, as taken
31st October, 1830.*

Comb Shop,.....tools, &c.	\$6 56
Tailors' shop,..... do	110 17
Coopers' shop,..... do	773 20
Tool shop,..... do	12 92
Shoemakers' shop,... do	795 89
Weavers' shop,..... do	1,540 02
Blacksmiths' shop, .. do	764 54
Chair and cabinet shop, do	82 01
Satinett shop,..... do	703 00
Check shop,..... do	136 00
Carpenters' shop,.... do	91 93
Stone shop and sundries in north yard,	808 15
Soap-house, fixtures, soap-grease and ashes,.....	45 28
Horse, waggon, sleigh, harness, &c.	333 00
Fire-engine, hose, &c.,	1,031 62
South wing, sundry articles,	957 68
Chapel, fixtures, &c.....	67 88
Clothing, bedding and raw materials for same,.....	11,078 36
Stoves and pipes, including all in prison,	1,273 51
Kitchen apparatus, including steam boiler,.....	847 00
Keepers' hall, fixtures,	38 34
Agent's office, do	22 50
Clerk's office, fixtures, books, stationary and sundry materials and tools for shops,	314 98
Hospital, medicine, surgical instruments and fixtures,	398 88
Guard-House, powder, fixtures, &c.	76 25
	<hr/>
	\$22,309 67
Inventory as taken 31st October, 1829,.....	21,908 35
	<hr/>
Increase for one year,.....	\$401 32

**ABSTRACT OF
BRIEF BIOGRAPHICAL SKETCHES,**

As taken from the Convicts when discharged from this Prison.

(Continued from the last Report.)



No. 393.—J. W.—(true name E. W.) Age 36; born in Vermont; lived with parents and worked at farming till about 19; then married, and went to driving cattle to Montreal and Boston, and, notwithstanding several severe losses, (\$1,600 at one time by a failure in Montreal,) made money enough in the course of 3 or 4 years to set up a store, and went to trading; failed in about 2 years, and moved into this state and went to farming; did very well till he got to gambling, horse-racing, drinking, &c. when he soon spent all his property, and after moving about to various places, finally returned to his father's, a destitute and ruined vagabond; became excessively intemperate; has drank between sun and sun two quarts of good spirits, and mowed six acres of grass. Says he has been a bad fellow, but is now determined to do better. Connections all wealthy and respectable. Has a good common education. Convicted of grand larceny in Essex county, January 4, 1827, and sentenced 3 years. Returning from a visit to St. Lawrence county, took a horse from a shed by the way, which he rode two miles, and then turned him towards home, without intending any thing worse. Was intoxicated at the time, and scarcely sensible of what he did. Discharged by expiration of sentence.

W. is a sensible intelligent man, and now he is sober, seems to have some proper sense of his folly and disgrace.

No. 394.—S. D.—Age 20; born in New-Hampshire; has lived in Vermont, but mostly in this state; lived with his parents till a few weeks before conviction; his father keeps tavern, and is an intemperate man; never got into that habit himself, nor any other very vicious, but was a rude boy; education very poor; has learnt more in the prison Sabbath school than he ever did before. Convicted of grand larceny in Essex county, January 5, 1827, and sentenced 3 years. Attended a shooting match soon after he left home, and was tempted to take a pocket-book from a coat that lay on the ground.—Discharged by expiration of sentence.

No. 395.—D. J.—Age 35; born in Greene county, where he lived with his parents till 9; then with an uncle till 15, when he entered a medical school, in which he fitted himself, by four years' study, for the practice, which he followed for five years, in company with Dr. C.; being subject to epileptic fits, concluded, upon the death of his brother, to take charge of his shoe store; married in Montgomery county, and moved there; failed for \$6,000; deserted his family there, on account of improper intercourse between his

wife and one of his journeymen ; came into the western part of the state, and in a year or two married again. Convicted of bigamy in Ontario county, Jan. 19, 1826, and sentenced 4 years. The only vicious habit to which he was addicted was intemperance. Decent common education. Says he has no inducement to stay in society, and shall probably be back in six weeks—and it would not be surprising if he should. Discharged by expiration of sentence.

No. 396.—P. A.—Age 22 ; born in Ulster county ; lived with his parents till 17 or 18, who were poor and vicious, and brought him up without proper instruction or restraint ; as soon as he was old enough, went out to work by the day ; got into many bad habits ; began very early to drink too much, and followed it ; went on to the canal, and took up gambling as a business ; used to stop at the villages along to gamble and cut up capers ; at one village broke open the trunk of a merchant just landed from the stage, and stole to the amount of \$86, of which he was convicted in Onondaga county, January 25, 1827, and sentenced 3 years and 1 day. Says it was his first theft. Could not read when he came to prison ; has been in the prison Sabbath school nearly 3 years, and learnt to read, write and cipher. Has learnt the coopering business. Discharged by expiration of sentence.

No. 397.—A. H.—Age 38 ; born and brought up in Vermont, by his parents till 19, when he went to blacksmithing, and afterwards to chairmaking ; married when about 20 ; lived with his wife 14 years, happily till the last two years, when she began to have her odd freaks, and finally got a horse and wagon at his expense and took herself off ; tried to get her back, but could not ; in a few years heard she was married again, and had two children ; six years after her elopement, he came into this state and took another wife ; had no suspicion but that he was free from his first. Convicted of bigamy in Genesee county, February 6, 1827, and sentenced 3 years and 1 day. Should never have been disturbed but for a meddling pettifogger, who wanted business. Education poor. Habits always good till within the last few years, when he was led to intemperate drinking by working at the distilling business. Discharged by expiration of sentence.

No. 398.—W. W.—Age 58 ; born and brought up in Connecticut, by his parents, in good circumstances : steady, honest and industrious in youth ; married soon after he was of age, and followed farming in the neighborhood till he was about 20, when he moved to Oneida county, in this state ; has owned a handsome property, but is now very poor ; has been in the habit of drinking too much of late years ; might have had a good education, but neglected it. Convicted of arson in Oneida county, February 10, 1825, and sentenced 5 years. Had been butchering, got high, and set fire to an old hovel, which he says was worth nothing, and was prosecuted out of spite. Has a large family in Herkimer county. Discharged by expiration of sentence.

No. 399.—C. S.—Age 44 ; born on the voyage from Scotland, within three days' sail of New-York ; lived in the city with his parents about 9 years, when the family moved to Canada ; lost his mother when about 15 ; bound out to a shoemaker in Montreal, and

served his time out ; steady as most boys ; after working a while in various places as a journeyman, established himself in the shoemaking and tanning and currying business, opposite Ogdensburgh, and made \$1,500 ; gave up business, and undertook to complete his fortune by inventing perpetual motion ; travelled into the eastern states in pursuit of it ; spent his money, committed a larceny and got into the Vermont state prison for 3 years ; pardoned in 2 years ; resumed his project of perpetual motion with fresh zeal, and followed it till his brain began to turn, and then attempted to drown himself by jumping from a bridge ; afterwards wandered about for some time, and then enlisted on Governor's Island, where he stayed two or three years ; upon his discharge, came up into the country with nothing in his head but a perpetual motion, and stole a horse, of which he was convicted in Oneida county, February 18, 1826, and sentenced 4 years.—Never very intemperate, but occasionally drank too much. Decent common education. Discharged by expiration of sentence.

No. 400.—J. L.—(See No. 87.) This man was convicted of grand larceny, in Otsego co. February 7, 1826, and sentenced 5 years ; discharged 24th Nov. of the same year, on a pardon conditioned that he should leave the state within four months, and never return ; brought back to prison, by order of the Governor, 29th Jan. 1830. Says he was out of the state from July to October, but then returned, and lived with his family till the time of his arrest. Says also, that he should have remained undisturbed, but for offending the complainant, by turning him out of his house for making too free with his daughter. It is said, however, that he has sometimes given offence to the merchants by filling his pockets with tea, &c. Discharged by conditional pardon, March 6, 1830.

No. 401.—G. G.—Age 25 ; born in Oneida county, but brought up in Washington county, where he was bound out to a farmer when quite young, and lived with him till 21 ; then in Oneida county again till he came to prison ; began very early to drink too much, and became quite intemperate ; has been in the habit of committing petty thefts from childhood. Convicted of grand larceny, in Oneida county, March 12, 1829, and sentenced 5 years. Has learnt to read in the prison Sunday school. Discharged by pardon, March 6, 1830.

No. 402.—A. E.—says his real name is A. S. Age 21 ; born in St. Lawrence county ; lived with his parents, in various places, till his mother died, about five years since ; his father, a poor and intemperate man, went off, and told him to go where he pleased ;—started off just where it happened ; in Buffalo stole \$30 out of a man's pocket. Convicted of grand larceny in Erie county, March 9, 1827, and sentenced 3 years and 1 day. Could scarcely read at all when taken into the prison Sunday school. Used to drink more than necessary, and sometimes got drunk. Discharged by expiration of sentence.

This boy showed signs of mental derangement, either real or feigned, for some time previous to his discharge. He was soon returned to prison on second conviction.

No. 403.—I. C.—Age 29 ; born in Saratoga county, but brought up in the western part of the state ; lived in different places, with

his parents, till 18, when his father died, and the care of the family devolved on him ; was addicted to no bad habit but intemperance ; got little or no education till he came to prison ; has learnt to write and cipher, and improved in reading, in the Sunday school. Convicted of forgery in Erie county, March 10, 1826, and sentenced 4 years. Says it was for presenting an order which he had taken in payment for a debt ; and, though he had reason to believe it was forged, thinks he was not accountable for that, and therefore not guilty. He has been a bad convict, and goes out full of revenge. Discharged by expiration of sentence.

No. 404.—E. J.—Aged 40 ; born in New-Jersey ; lost his parents when an infant ; brought up by his grandfather, at blacksmithing ; no early education ; has learnt to read a little late years, and can write his name after a fashion ; has had a great deal of trouble in his day ; in 1818 was convicted of jail breaking and assaulting the jailer, in Genesee county, and sentenced 8 years ; pardoned in about 5 ; was two years in solitary ; soon after his discharge, was in this county jail 30 days, for stealing blacksmiths' tools ; in 1825 was convicted, in this county, of stealing three or four young cattle, which he " was driving along without intending any thing wrong," and sentenced 5 years. Says he was never addicted to any very bad habits. Discharged by expiration of sentence, March 11, 1830. This man has lately been overtaken " driving along" some cows, and is on his way back to prison for the third time.

No. 405.—S. K.—Age 17 ; born in Vermont ; until about a month before conviction, lived with his parents, who endeavored to bring him up well ; was steady and honest till within two or three years, when he began to get into bad company and vicious habits. Convicted of grand larceny, in Onondaga county, November 27, 1829, and sentenced 3 years. Says he stole a horse, rode him to Herkimer county, sold him as soon as he arrived there for \$130 ; stole him again the same night, and was on his way back, when his hurry excited suspicion, and he was stopped ; made his escape, got home, stole a pair of boots, and was in jail on a 30 days' sentence when he was indicted for the grand larceny, which brought him here. Education decent for a boy of his age. Says he had determined, when he came to prison, to join a company of about twenty rogues that he knew, and let the public know better than to bring him here ; but he has thought better of it since. Discharged by pardon, March 13, 1830. Doubtful case.

No. 406.—L. D.—Age 37 ; born in Connecticut ; ran away from home when a boy, and has taken his own course ever since ; soon got into bad company, and all sorts of vicious habits but drinking ; when about 18, was sentenced to the Vermont state prison for 12 years ; pardoned in about 7 ; then went with a fellow convict to New-York, and with him was soon sent to that prison 5 years for stealing four fat oxen ; told the keepers at the expiration of his time that he did not intend to work for his living, and was convicted again in New-York, March 13, 1824, on two indictments for breaking stores, and sentenced 6 years and 2 days. Transferred to this prison in 1825. Education very poor. Discharged by expiration of sentence. D. is now in Massachusetts prison.

No. 307.—J. B.—Age 29 ; born in Delaware county ; lost his father when about 9 ; was brought up as clerk in a store ; has since been in the mercantile business himself ; his habits have always been correct, and his reputation fair, excepting in one instance, a girl compelled him to pay \$400 for the support of her child ; good common education. Convicted of forgery, in Jefferson county, June 15, 1829, and sentenced 7 years.

When notified that a suit was commenced against him, by a fellow with whom he had had difficulty, and from whom he had taken a receipt in full, sent the receipt to the justice, supposing it would stop the proceedings, but found that he was sued on a note which the fellow had bought for that purpose. When he went to take up the note, was arrested for forgery in altering the date of the receipt from 1825 to 1827. Solemnly declares that he did not do it. Discharged by pardon, March 16, 1830.

No. 408.—H. N.—Age 30 ; born in Oneida county ; lived with his parents till he was 14, when his father died, and then with an uncle till 21 ; was steady and industrious till this time, but after this began to rove about and get into bad habits ; never drank to excess ; no education ; attended to no moral or religious instruction after his father's death. Convicted of grand larceny, in Oneida county, March 17, 1827, and sentenced 3 years. Says he did steal a yoke of oxen, at the suggestion of some of his relations, from a neighbor, with whom they were at variance. Discharged by expiration of sentence.

No. 409.—I. C.—Age 58 ; born in Massachusetts ; lost his father when very young ; lived with his step-father, a hard man, till he was 17, when he left him and went cruising about the country ; worked some at first, but soon took up gambling for a living ; was about as bad as any other fellow ; lost two wives before he was 21 ; came into this state and married again, but was soon obliged to leave his wife to go to prison ; his happiness has frequently been interrupted in the same way ; has been in the New-York prison five times, making an aggregate of 26 years confinement. Convicted, the last time, of grand larceny, in Dutchess county, April 7, 1825, and sentenced to the old prison 5 years. Transferred to this in 1825. Education very poor ; has been somewhat intemperate. Discharged by expiration of sentence.

No. 410.—M. I. O.—Age 36 ; born in Dutchess county ; brought up by his grandfather ; married at 20, and worked out for a living ; was a wild, rattle-headed fellow, and spent much time and money in horse racing, gambling, drinking, and every other bad habit ; education very poor. Convicted of grand larceny in Dutchess county, April 7, 1825, and sentenced 5 years. Transferred to this prison in 1825. Says he was led away by C. (No. 409,) and with him broke open a store. C. says that O. has been in the old prison three times, and was the prime mover of this affair. Discharged by expiration of sentence.

No. 411.—R. W.—Age 27 ; born on the passage from France to New-York ; lost his father when he was a small child ; lived with his mother in Virginia, till about 11 ; then left her to drive team for his uncle in Pennsylvania, which he followed till about 15, when

he came to Orange county in this state ; was a wild, unsteady boy, but not given to drinking, or any other bad habits but such as are common to thoughtless boys ; had no religious instruction, and could scarcely read at all when he came to this prison ; has improved in reading, and learnt to write in the prison Sunday school. Convicted of grand larceny, in Orange county, April 12, 1820, and sentenced to the old prison for 7 years. Says he was not guilty. M., who is now in this prison, broke open a store, sold him some stolen goods, and charged the larceny upon him, which was the means of his conviction. During his imprisonment in New-York, was taken out and convicted of breaking prison, and 3 years added to his sentence.- Subsequently was taken out again, and convicted of assault and battery, with intent to kill H. M. a fellow convict, and sentenced to spend three years of his term in solitude. M. came at him with a knife, which W. took out of his hand, and gave him several stabs, intending to kill him. Transferred to this prison in 1824. Discharged by expiration of sentence.

No. 412.—J. alias R. O.—Says his true name is L. B. Age 40 ; born and brought up in Orange county ; says his father was a stingy old miser, and sacrificed the best interests of his family to his love of money ; gave his children no schooling ; all the instruction he ever had, in reading or any thing else, he has got in the prison Sunday school ; upon the death of his mother, when he was 16, he left home, and has been roving about ever since ; says he has been dishonest from his youth up. Convicted of grand larceny, in Dutchess county, April 17, 1823, and sentenced 7 years to the old prison. Transferred to this in 1825. Says he stole a horse worth \$200, to meet a payment for groceries, in which he was trading. Discharged by expiration of sentence.

No. 413.—W. B.—Age 42 ; born in New-Hampshire ; lost his father when very young ; went out to live, and at a suitable age learnt the blacksmithing business ; was a pretty steady boy, and got a decent education ; inclined to rove a good deal afterwards ; never has been much in the way of religious instruction ; after he came into this state kept tavern, and became very intemperate. Convicted of attempt to rape, in Franklin county, April 27, 1827, and sentenced 3 years. Denies that he was guilty, but says that he was well soaked with rum at the time. The girl was but ten years of age. Has a wife and seven children. Discharged by expiration of sentence.

No. 414.—L. S.—Age 16 ; [born and brought up in Saratoga county ; worked out some by the month, but always made it his home with his parents ; has been a very wild boy ; in loose company a great deal, tending billiard tables, nine-pin alleys, &c. ; has occasionally been drunk, but not often ; education poor ; all the learning he got was through his own exertions ; generally spent the Sabbath in sports ; has been in the prison Sunday school. Convicted of an attempt to rape, in Saratoga county, November 27, 1829, and sentenced 3 years and 1 day. Says he was guilty of all but actual violence. Discharged by pardon, May 3, 1830.

No. 415.—J. G.—Age 20 ; born in Montreal, where he lived, mostly, till he was 15 ; parents both died while he was quite young ;

took his own course afterwards ; fell into low vicious company, and bad habits ; has been addicted to stealing and excessive drinking from boyhood ; has got nearly all his knowledge of letters in the prison Sunday school. Came into Clinton county about five years since, where he was convicted of grand larceny, May 12, 1827, and sentenced 3 years. Says he received a span of horses from a fellow, who, he had reason to believe, had stolen them, but did not steal them himself. Was in liquor at the time. Discharged by expiration of sentence.

No. 416.—J. B.—True name W. A. R. Age 39 ; born in Maryland ; his father died when he was 5 ; lived with his mother till he was 17 ; then went away, and has been roving about almost ever since ; has followed many kinds of business, and travelled in every part of the United States ; went privateering a while during the war ; became intemperate ; good common education ; has taught penmanship as a business. Convicted of passing counterfeit money in Washington county, June 17, 1824, and sentenced 10 years. Procured about \$300 of this money at Slab City in Canada ; passed \$5. Pardoned May 12, 1830. This man's connections are known to be respectable, and his character is quite above that of the common run of convicts. He is an elegant penman, and has been employed in teaching a writing class in the prison Sunday school.

No. 417.—J. B.—A Canadian Frenchman, born in Quebec ; age 50 ; lived with his parents, who were very poor, till about 10, when he was sent out into the country to work at farming ; was a pretty industrious and sober young man, but of late has sometimes got drunk ; came into this state two or three years since ; don't know one letter from another. Convicted of burglary in Clinton county, January 23, 1829, and sentenced for life. Says he was charged with taking a pair of shoes from a house in the night, and though the charge was false, owned it, because threatened to be sent to the state prison if he did not. Discharged by pardon, May 20, 1830. Some time after this man's conviction, his wife travelled, on foot, with a child in her arms, from Clinton county to New-York, expecting to find him in the old prison.

No. 418.—J. T.—Age 31 ; born in Washington county ; left home to learn a trade at 15 ; was well brought up till this time, but afterwards became rather loose in his habits ; his master was an intemperate man, and he fell into the habit of drinking too much himself ; it was in a grocery where he had been drinking too freely, that he committed the crime which brought him to prison ; took \$50 or \$60 in change from the desk. Convicted of grand larceny, in Tompkins county, June 26, 1827, and sentenced 3 years. Education very poor. Discharged by expiration of sentence.

No. 419.—H. L.—Age 41 ; born in Massachusetts ; upon his mother's death, when he was 6, his father broke up house-keeping, and put him out to a neighbour ; was cruelly treated, and at 9 ran away and went to sea ; has followed the seas nearly all his life, a great part of the time in the U. S. navy ; once impressed aboard a British man of war ; has been a drunkard for more than twenty years ; no early education, and very little now ; says he has been "terrible wild in his notions, and never felt as sober as he does

now." Convicted of grand larceny in Saratoga county, May 29, 1829, and sentenced 3 years. Says he stole four rolls of cloth from a clothier's shop, swung them across the first horse that he could find, and had got more than twenty miles, when, on being interrogated about the cloth by a gate keeper, told a lying story, and rode on, but soon turned back and confessed the whole. Discharged by expiration of sentence.

No. 420.—A. S.—Age 23 ; born in Washington county ; his father was very poor and intemperate, and otherwise loose in his habits ; was brought up in a cotton factory, without education or religious instruction ; before he came to prison had long been in the habit of taking his bitters, regularly, morning, noon and night, and sometimes got drunk. Convicted of receiving stolen goods, in Rensselaer county, May 31, 1827, and sentenced 3 years. Acknowledges his guilt. Has learnt to read and cipher in the prison Sunday school. Discharged by expiration of sentence.

No. 421.—D. B.—(Mulatto girl.) True name is D. J. Age 21 ; born in Schoharie county ; her mother was a slave ; knows nothing of a father ; ran away from her master when she was 14, and has been in trouble ever since ; in Ballston jail 30 days for petit larceny ; has had a child which died in three months ; became a common prostitute ; no education. Convicted of petit larceny, 2d offence, in Rensselaer county, June 1, 1827, and sentenced 3 years. Discharged by expiration of sentence.

No. 422.—N. D.—(Black girl.) Don't know her age ; about 25 ; born in Greene county ; her mother a slave ; her father, a drinking man, was drowned in North river when she was small ; ran away from her master, and took to drinking and stealing, and became a prostitute ; has been to school some, but reads very poorly. Convicted of petit larceny 2d offence, in Rensselaer county, June 1, 1827, and sentenced 3 years. Discharged by expiration of sentence. She died in this county poor-house soon after her discharge, of a certain disease with which she was sick during the whole of her imprisonment.

No. 423.—I. B.—Age 22 ; born in Dutchess county ; brought up by parents in Albany county ; father poor and intemperate ; did not drink too much habitually himself, but sometimes had high scrapes ; got into the watch house several times, and into jail once, for fighting ; had very little education, and scarcely any religious instruction, before he came to prison. Has been in the prison Sunday school. Convicted of grand larceny, in Albany county, December 15, 1828, and sentenced 5 years. Denies his guilt. Assisted J. M. who was convicted with him, to carry a trunk, merely to oblige him ; did not know that it was stolen. Discharged by pardon, June 3, 1830.

No. 424.—G. W. C.—Age 30 ; born in Herkimer county ; at an early age went out to work, and from that time followed his own course ; bound himself out to learn the tanning and currying business ; had a love affair with his master's daughter, which was a disadvantage to him ; was fond of frolicking, and has gambled a great deal, frequently on Sunday ; education very poor. Convicted of grand larceny, in Warren county, June 6, 1827, and sentenced 3

years. Denies that he was guilty. Says he knocked down the sheriff who first attempted to take him, and had got well on towards Canada before he was arrested. Discharged by expiration of sentence. This man has for some time been partially deranged, and is not perfectly sane now.

No. 425.—J. P.—Age 23; born in Columbia county, parents very poor; as soon as old enough, went to work as a day laborer; was called a hard boy; commenced stealing before he was five years of age, and followed it up till the time of his conviction; has been in jail for it three or four times; did not know his letters, and was never in a religious meeting before he was sent to the state prison; has been very intemperate. Convicted of petit larceny, 2d offence, in Columbia county, June 7, 1824, and sentenced 6 years to the old prison. Transferred to this in 1825. Discharged by expiration of sentence. He has been in the prison Sunday school, but was too stupid to learn much.

No. 426.—A. B.—Age 24; born in Herkimer county, and brought up by his parents; his father has been in good circumstances, but became intemperate and lost his property; after he left home, fell into bad company, and was led into vicious habits; was introduced to a billiard table, which was the means of his taking to gambling for a livelihood; has lost much money at gambling, and in houses of ill fame. Convicted of grand larceny in Monroe county, March 17, 1824, and sentenced 12 years. He and two others robbed a pedler of what was supposed to be a large amount of money and notes.—Has considerably improved a very poor education in the prison Sunday school. Discharged by pardon, June 9, 1830.

No. 427.—A. C.—Age 28; born in Washington county; his parents being poor, he was obliged to go out to work for his living at about eight years of age; worked a few years at farming, and then bound himself out to learn the blacksmithing business; left his master before his time was out, and went to work for others: became intemperate; his father's advice and example had a bad effect upon him. Convicted of perjury and grand larceny, in Steuben county, June 17, 1823, and sentenced 14 years. Says he stole some money, and swore that he had accomplices, but who were shown to be innocent. Has got all his education and religious instruction in the prison Sunday school. Discharged by pardon, June 9, 1830. C. has been partially deranged for some time past.

No. 428.—E. B.—(female) Age 19; born and brought up in Albany county; lived with her parents till her father, who was a respectable trader, failed, and then went out to service; two or three years before conviction, was led astray by a bad woman, and gave herself up to prostitution; has had a child, which soon died; became intemperate and thievish; no education; has learnt to read some in prison. Convicted of petit larceny, 2d offence, in Albany county, June 16, 1828, and sentenced 3 years. Discharged by pardon, June 9, 1830.

No. 429.—W. V. V.—Age 38; born in Columbia county; upon his mother's death, when he was an infant, his father gave him to a neighbor, with whom he lived till 16; then lived in various places, and had his own way; was a wild, rattle-headed fellow; latterly be-

came intemperate ; can't read a word, and was brought up without religious instruction. Convicted of petit larceny, 2d offence, in Saratoga county, April 14, 1829, and sentenced 3 years. Says the crime was committed in a drunken frolic. Has a wife and four children. Discharged by pardon, June 9, 1830.

No. 430.—R. B.—Age 18; born in Oneida county; his parents were poor, and his father addicted to intemperance and other vicious habits; as soon as he was able to earn his living, was put out to a farmer; was tolerably steady and industrious; very little attention was paid to his education or religious instruction; has learnt to read mostly in the prison Sunday school. Convicted of attempt to rape, in Oneida county, Oct. 13, 1828, and sentenced 3 years. Says he was guilty. Discharged by pardon, June 10, 1830.

No. 431.—A. M.—Age 18; born in Livingston county, whence his parents very soon moved into this county; his father enlisted, deserted the army and his family, married again, and is now in the Ohio state prison; has been a hard boy himself; began to steal when very young, and followed it up till he came to prison; once stole \$100 from the captain of a canal boat, and nothing but his extreme youth saved him from conviction; ran away from three different masters to whom he was bound; his last employment was driving team on the canal, where he got into the habit of drinking too much; the most that he knows about reading he has learnt in the prison Sunday school; was in the arithmetic class a short time, but left it on account of religious scruples! Convicted of petit larceny, second offence, in Oneida county, June 14, 1827, and sentenced 3 years. Says his late feigned derangement was resorted to, in order to dissuade his fellow convicts from attempting to draw him into crime with them again! Discharged by expiration of sentence. This boy has arrived at a degree of obduracy seldom witnessed in one of his age. His uncle has been at the pains to procure a pardon, restoring him to the privileges of a citizen, which he now presents to him, hoping that it may have a favorable influence upon his feelings and future conduct. [He is again in this prison, Dec. 31, 1830.]

No. 432.—A. B.—Age 35; born in England; lost his father when he was small; lived with his mother till he was 14, when he left her and took his own course; came to this country when about 19; has got his living by working as a day laborer; became intemperate; never went to school a day in his life; reads very poorly. Convicted of grand larceny, in Monroe county, June 14, 1827, and sentenced 3 years. Charged with stealing \$40; denies it; the difficulty arose out of a gambling scrape; says he don't like this country; no justice in it. Discharged by expiration of sentence.

No. 433.—H. L.—Age 34; born in Vermont; after his father's death, when he was a mere boy, worked out for a living, and had his own way; got very little education; at the commencement of the war, went to lumbering on the St. Lawrence; became intemperate, and took to passing counterfeit money, of which he was convicted, in Westchester county, June 15, 1822, and sentenced to the old prison 8 years. Transferred to this prison in 1824. Discharged by expiration of sentence. He has been a hard convict.

No. 434.—H. P.—Age 33; born and brought up in Montgomery county; always made it his home with his parents, but worked out as a day laborer; became excessively intemperate; never learnt to read; married about ten years ago; got sadly taken in; bad woman; lived with her only a year; she used afterwards to run him in debt; went frequently and remonstrated with her, but as this had no effect, used the argument of a fire-shovel upon her. Convicted of assault with intent to kill, (his wife,) in Montgomery county, June 16, 1827, and sentenced 3 years and 1 day. A very stupid man; hardly common sense. Discharged by expiration of sentence.

No. 435.—C. H.—(Black girl.)—Age 20; born in Herkimer county; her mother a slave; knows nothing of a father; was put to service in Oneida county; ran away when about 12; staid in the same county two or three years, and then went off to Schenectady with a black man, where he deserted her, and she resorted to houses of ill fame; got into every bad habit, and among the rest excessive drinking; can read a little. Convicted of petit larceny, second offence, in Albany county, June 18, 1827, and sentenced 3 years. Says she was guilty in both instances, and more too. Discharged by expiration of sentence.

No. 436.—J. C.—Age 64—(says he reported himself twenty years younger than he really was when he came here, because he was ashamed that they should see such an *old* fool come into prison,) born in Ireland; lived with his parents till 15, and then ran away and enlisted into the army, because he disliked his step-mother; was in the service fourteen years on the continent; after his discharge, went to sea for about five years, and was impressed aboard a man of war; got away once, but was retaken and flogged almost to death; afterwards entered the army again, and came out to Canada, where he was finally discharged; married and settled in Vermont; his wife died eight or nine years since; thought very hard of God for taking her away; from that time "fell away like a rotten sheep;" cared not what became of him; gave himself up to drinking, and became a beastly drunkard; wandered into this state, and stole a watch and \$4 from the captain of a canal boat; sentenced to jail six months; soon after stole some hoes, and was convicted of petit larceny, 2d offence, in Albany county, June 18, 1827, and sentenced to this prison 3 years. Thanks the Lord, with much apparent sincerity, that he was brought here. Learnt to read a little before he left his parents, but paid no attention to it afterwards. Says he never had a Bible in his hands before he entered this prison; thinks he shall make it the man of his counsel hereafter. Draws a pension of 20 cents a day from the British government. Discharged by expiration of sentence.

No. 437.—Doll, a black girl.—Don't know her age; probably about 22; born in Steuben county; no father; her mother put her out to service as soon as she was old enough; went among loose women and became a prostitute; sometimes got drunk; can't read at all. Convicted of petit larceny, 2d offence, in Steuben county, June 19, 1827, and sentenced three years. In both instances for stealing clothes from her old mistress. Discharged by expiration of sentence.

No. 438.—W. F.—Age 34; born in Vermont; parents poor; lived with them and worked out by the month till about 18, after which he went off and took care of himself; was disappointed in a love affair, after he became a widower, and took to drinking; has been excessively intemperate; no early education; can read but very poorly now. Convicted of petit larceny, 2d offence, in Jefferson county, June 18, 1827, and sentenced 3 years and 1 day. It was for stealing a pail, which he pawned for grog. Discharged by expiration of sentence.

No. 439.—J. T.—Age 50; born in Massachusetts; lived with his parents till of age; after driving stage two or three years, began to ramble about the country; went off to the south, and followed driving stage, riding post, farming, &c. till the commencement of the war, when he enlisted into the army; was in the Seminole war, under Gen. Jackson, and at the battle of New-Orleans; afterwards bought land, married and settled in Tennessee; on his way to the eastern states, to visit his friends, fell in with some Indian traders, who employed him to assist in getting their fur to Montreal; on coming out of Canada had an affray with some fellows at the line, who undertook to search him for counterfeit money; they pretended to find some, and he was convicted, in Clinton county, June 24, 1822, and sentenced 8 years to the old prison. Transferred to this in 1825. Has occasionally been drunk, but not habitually intemperate; decent common education. Discharged by expiration of sentence.

No. 440.—M. R. R.—Age 28; born in Schenectady county; his father went off before his remembrance, and never returned; heard that he died a soldier at Sackett's Harbor; his mother was married again when he was but a small boy, to a very intemperate, bad man, who drove the step-children off, and told him he would kill him if he ever came home again; found a home awhile with a cousin, and then went off to the south and followed teaming; was engaged to a girl, and about to be married, when she died; was very unhappy; returned to this state, took to drinking, and here he is. Convicted of burglary, in Montgomery county, July 23, 1823, and sentenced for life. Put his hand through the window of a tavern, and took about three shillings. Has improved a very poor education in the prison Sunday school. Discharged by pardon, June 24, 1830.

No. 441.—R. M.—Age 28; born and brought up in New-York city; his father died when he was about 13, wounded aboard the frigate United States; he was apprenticed to a comb-maker; was a wild boy; frequently in the watch-house and bridewell; sometimes drank too much, but not habitually; went to school a few months when a small boy, but learnt to read in the prison Sunday school; never had any religious instruction before. Convicted of grand larceny, in New-York, Oct. 19, 1822, and sentenced to the old prison 14 years. Transferred to this prison in 1825. Says he and two others were guilty of breaking and robbing some houses within the infected district, in the time of the yellow fever. Discharged by pardon, June 24, 1830.

No. 442.—I. W.—Says his true name is H. W. Can't tell his age exactly; not far from 25; born in Ireland, but moved into

England before his remembrance ; ran away from school when about 9, and went to Liverpool, where he was taken up as a vagrant and sent to the poor-house ; soon after bound to the captain of the packet Albion, who gave him "rope's end" enough on the passage to New-York ; ran away from him as soon as he landed ; got employment four years about the theatre ; then went up into the country and lived a few years ; got into difficulty with a girl, and was obliged to clear out ; returned to the city, where he was soon convicted of grand larceny, (Sept. 14, 1822,) and sentenced 14 years to the old prison. Transferred to this in 1825. Says he received stolen goods from O. (now in this prison,) who, the Judge said, had been before that court ten times. Could not read without spelling most of the words when he entered the prison Sunday school ; has learnt to read, write and cipher ; can recite the most of the New-Testament ; says this prison has made a man of him. Discharged by pardon, June 24, 1830.

No. 443.—J. A.—A Canadian Frenchman. Age 23 ; born in Quebec ; so far as can be understood from his very broken English, he lost his parents when young, and was thrown friendless upon the world ; had troubles which led him to excessive drinking ; knew nothing of letters when he came to prison ; has been in the prison Sunday school three years, and learnt to read decently. Convicted of grand larceny, in Clinton county, July 3, 1827 and sentenced 3 years. Discharged by expiration of sentence. He has been partially deranged a great part of his time in prison, and is not himself now ; talks of an immense property left to him in Canada, and is highly elated at the idea of getting immediate possession of it.

No. 444.—W. C.—Age 50 ; born in Massachusetts ; was a steady, hard-working young man ; has been worth a thousand dollars ; always did well till he went to lumbering on the St. Lawrence ; lost a raft, (all his property,) took to drinking, and became a poor wretch ; very little education. Convicted of swindling, in Clinton county, July 3, 1827, and sentenced 3 years. Says he was guilty. Discharged by expiration of sentence.

No. 445.—J. R.—Age 35 ; born in Vermont ; parents wealthy and respectable ; father has been a member of the Vermont legislature ; he was called a steady boy till 20 ; after that became rather dissipated ; followed lumbering a good deal on the Hudson and St. Lawrence ; some jealousy arose between him and his wife ; took to drinking ; decent common education. Convicted of assault to rape, in Clinton county, July 3, 1827, and sentenced 3 years. Had been out haying on Sunday, got high, and has no recollection of what took place. Discharged by expiration of sentence.

No. 446.—J. W.—Age 48 ; born in Philadelphia ; his father came from England, with Burgoyne, was taken prisoner with him, and settled in this country ; he was born while his father was a prisoner ; served an apprenticeship at hatting in Canada ; joined the army, deserted, and at the commencement of the late war enlisted into the U. S. service, for five years ; became intemperate and otherwise vicious ; scarcely any education. Convicted of forgery, in Clinton county, July 3, 1827, and sentenced 3 years. Says he

was only accessory. Discharged by expiration of sentence. An extremely ignorant old man.

No. 747.—J. M.—Age 33 ; born in Hampshire. [This man is partially deranged, and his answers too incoherent to make out much of his history.] Says he never went to school much, and has sometimes been drunk. Convicted of grand larceny on two indictments, in New-York, July 11, 1822, and sentenced 8 years to the old prison. Transferred to this in 1825. Says he stole horses. Discharged by expiration of sentence.

No. 448.—A. L.—A Canadian Frenchman. Age 35 ; born and brought up in Quebec ; became intemperate and unsteady in his youth, and has been so ever since while out of prison ; left his parents at 21 ; his father told him if he went away he would “ bite his thumb (be miserable,) before one month,” and so he did, but had such a “ sentiment of shame,” that he could not return, and “ pitched ahead ;” came into Clinton county, and was soon convicted of passing counterfeit money, and sentenced to the old prison 7 years ; pardoned in 5 years and 7 months ; left the prison with a determination to try it again, and was very soon convicted of the same crime, in Rensselaer county, and sentenced 8 years. Transferred to this prison in 1824. Has a decent French education, and has learnt to read and write English in the prison Sunday school. Discharged by expiration of sentence, July 13, 1830.

No. 449.—W. J.—(Black.) Age about 28 or 30—does not know ; born in Kentucky, a slave ; was a very wild, vicious boy ; when his old master died, some difficulty arose in settling the estate, and he was sold ; ran away from his new master, and came into Erie county, where he was convicted of grand larceny, July 16, 1825, and sentenced 5 years. Won ten dollars at gambling, which proved to have been stolen ; has gambled a great deal, more on Sunday than any other day ; did not know his letters when he came here ; in the Sunday school has learnt to read well, to write decently, and by some instruction week days has got to ciphering in square root. Discharged by expiration of sentence.

No. 450.—H. P.—Age 33 ; born in Massachusetts ; his parents moved into this state when he was a boy ; his father was a man of dissolute habits ; his first crime was committed at a gambling table in his father's house, when he was but 4 or 5 five years of age ; took a piece of money from the table and concealed it in his mouth ; has been in the habit of stealing, gambling, drinking, &c. from that time to this ; a history of his crimes would fill a volume ; a reward of \$1,000 was once offered for him in New-York ; has been in the army ; was sentenced to the old prison 18 years for breaking open a store in Seneca county ; pardoned in about 4 ; in a year or two after was convicted of grand larceny, in Tioga county, and sentenced to this prison for 7 years. Was continually devising schemes of mischief in the early part of his term here, but has resolved to lead a different life. No early education or religious instruction ; barely knew his letters when he came to this prison ; has learnt to read, write and cipher in the Sunday school. Discharged by expiration of sentence.

No. 451.—J. E.—Age 32 ; born in Rhode-Island, whence his parents very soon moved to Canada, and both died when he was a small boy ; was bound out at 13 to a tanner, with whom he lived till 21 ; not the best of boys ; got very little education, and no religious instruction ; after his time was out, roved about a great deal, working some, but gambling and horse racing more. Convicted of forgery, (counterfeit money,) in Oneida county, July 22, 1823, and sentenced 7 years. Had some bad money of his own, but that for which he was convicted, was a package which he was carrying for another man to Col. A. R. Discharged by expiration of sentence.

No. 452.—H. W.—Age 18 ; born in Vermont, whence the family moved into this state when he was quite young ; lost his father when about 8, and his mother a few years after ; he lived with an elder brother till about four years ago, when he thought he could do better, and went off ; made out badly ; got to stealing, and followed it up till he came here. Convicted of grand larceny in Allegany county, October 27, 1829, and sentenced 3 years and 1 day. Broke open a store. Could read but very poorly when he came to prison ; has improved in the Sunday school ; never went to meeting much ; has sometimes drank too much, but not often. Discharged by pardon, July 31, 1830. This boy goes out feeble with consumption.

No. 453.—T. W. O.—Age 26 ; born in Jefferson county ; lost his father in infancy ; fared hard, but was brought up to good habits, and always sustained a good character ; had no chance to get much education ; saved enough of his hard earnings to purchase 120 acres of land, not long before his conviction, and had ten dollars left.—Convicted of grand larceny in Chautauque county, April 30, 1828, and sentenced 3 years and 6 months. Says he was employed to sell a yoke of oxen, which proved to have been stolen, and the pretended owner was missing. Discharged by pardon, July 31, 1830. Goes out in very feeble health, broken down by hard labor.

No. 454.—A. R.—Age 23 ; born in the city of New-York ; lived with his parents till he was quite a lad, a disobedient, stubborn boy ; his father was an intemperate man, and abusive to his family ; after stealing \$40 from his mother, he left his parents without their consent, and went to work on the canal ; plunged into every sort of vice—gambling, lewdness and stealing whenever he could get a chance ; has been a thief from childhood ; cannot recollect the first time ; scarcely any education ; never went to meeting but a few times, and then only to make sport ; has learnt to read, write and cipher in the prison Sunday school ; never was a drunkard, but had his high scrapes. Convicted of grand larceny in Ontario county, August 17, 1826, and sentenced 4 years. For taking \$48 from his employer ; says he was tried on another indictment, for taking a pocket-book ; was acquitted on the last, but guilty of both. Discharged by expiration of sentence.

No. 455.—C. C.—Age 20 ; born in Kentucky ; convicted of horse-stealing, in Ontario county, August 20, 1825, and sentenced 5 years. Discharged by expiration of sentence. During the latter part of this boy's confinement, he has gradually sunk into a state of idiocy, and is now incapable of taking care of himself. Appeared to possess common mental powers when he came to prison, and

learnt to read in the Sunday school. [Taken to the county poor-house.]

No. 456.—T. S.—Age 25; born in New-Jersey; his father, a drinking man, died when he was a small boy; the family extremely poor; he left home at 6, and went from family to family, wherever they would keep him, till he was 10; then bound to a blacksmith, who treated him so ill that the neighbors advised him to go off; has been wandering about ever since, abused and cheated out of his wages wherever he labored. Convicted of grand larceny, in Tompkins county, December 30, 1825, and sentenced 5 years. Says he never stole any thing before but fruit, and never did any thing else very bad. In the prison Sunday school, commenced with the alphabet, can now read tolerably well. Discharged by pardon, August 28, 1830. He is a very simple-hearted fellow, and has destroyed his health by hard and faithful labor in prison.

No. 457.—W. S. J.—Age 26; born in the city of New-York; when he was 14, his father, a Jew, and engaged in the mercantile business, went out to New-Orleans with goods, and never returned; he was apprenticed to a watchmaker in the city; was a wild, thoughtless, disobedient boy; ran away from his master, and went off to the South Sea Islands on a whaling voyage; returned in debt, and commenced a navigation school in New-Bedford; was unsuccessful; determined to make a fortune some how; returned to New-York, and meeting with some merchants who wished to freight a vessel to Tampico and Alvarado, proposed to them to purchase one and let him take charge of her, which they agreed to do; after employing him to make the purchase, they fell back and left the vessel on his hands, which induced him to resort to forgery to pay for her. Convicted of forgery (six indictments) in New-York, October 16, 1824, and sentenced 42 years to the old prison. Transferred to this in 1825. Has a good common education. Says he had maintained a fair character, and never thought of committing a crime till he returned to New-York, as above stated. Discharged by pardon, August 28, 1830.

No 458.—J. W.—Age 44; born in Westchester county; did not live with his parents much after he was 12 or 14; was put to the blacksmithing business; ran away from his master; wandered about from place to place; enlisted in the army; became a beastly drunkard, and addicted to many other bad habits; has frequently been in county jails for drunkenness and petty thefts; spent all his wages in the army at gambling and drinking; barely learnt to read when a boy. Convicted of grand larceny in Saratoga county, August 31, 1827, and sentenced 3 years and 1 day. Discharged by expiration of sentence.

No. 459.—T. R.—Age 53; born in Delaware; served a full apprenticeship at tailoring in Philadelphia; was a pretty "quiet chap" then, but afterwards became unsteady; liked a high scrape, gambled a good deal, often among bad women, and drank more than he ought; his wife was divorced from him about eight years since, on account of his bad conduct; learnt to read and write when young; was discharged from the Baltimore penitentiary the December before he came here. Convicted of grand larceny in Erie county,

Sept. 1, 1827, and sentenced 3 years and 1 day. Says he was guilty enough, but ought not to have been convicted on the testimony. Discharged by expiration of sentence.

No. 460.—J. D.—Age 37; born in Ireland; left his parents when about 16; enlisted, and was in the army nine years; came to Canada in the army in 1817, and in about three years deserted; was soon in St. Lawrence county jail 45 days for stealing cigars; went to work on the canal in Oneida county, and was there convicted of burglary, June 14, 1821, and sentenced to this prison for life; in solitude two years and eight months; beat his eye out against the grates of his cell door; pardoned April 24, 1824; a few months after, was convicted of grand larceny, in Herkimer county, and sentenced 5 years. Became a great drunkard in the army, and still greater on the canal; no early education; has learnt to read some in prison. Discharged by expiration of sentence, Sept. 5, 1830.

No. 461.—S. N.—Age 26; born in Connecticut; mother died when he was 3; his father went off when he was 12, and he has heard nothing from him since; ran away from his uncle at 13, and roved all about the country; took to gambling, drinking and stealing; was once tried, in Yates county, for stealing 250 dollars' worth of goods, but cleared; reads and writes, but not very well. Convicted of grand larceny, in Tioga county, Sept. 4, 1827, and sentenced 3 years and 1 day. Stole a rifle from a good friend, for the purpose of getting into prison: thought it would do him good, and has not been disappointed; shall be a man after this; means to compensate his friend two-fold, the first thing. Discharged by expiration of sentence. An apparently honest-hearted, ingenuous fellow.

No. 462.—C. M.—Age 59; born in Pennsylvania; ran away from his parents when 13, and enlisted; enlisted four times; and was taken away home three times by his father; has been in the army 25 years, and addicted to all the vicious habits of a soldier; the worst company was the best for him; has been a very hard drinker for 15 years; in many engagements; had his skull fractured in the explosion at Little-York; can barely read, nothing more. Convicted of grand larceny, in Jefferson county, Sept. 4, 1827, and sentenced 3 years and 1 day. Discharged by expiration of sentence.

No. 463.—J. M.—Don't know his age, (about 50;) born in Ireland; lived with his parents, who were very poor, till about 14; worked out by the month a few years, then enlisted, and was in the army from that time till the day before the battle of Plattsburgh, when he deserted, and came into this state; has been a hard drinker ever since he was a boy; no education; don't know the alphabet; married a few years ago; his wife went off with another man to Ohio; thought he was free from her, and married again. Convicted of bigamy, in Washington county, Sept. 6, 1827, and sentenced 3 years. Discharged by expiration of sentence.

No. 464.—D. S.—Age 37; born in Maine; ran away from his parents at 15, and went to sea; was noticed by masters of vessels as a bright, active boy, and made much of; in a few years was made

mate of a vessel trading to Liverpool; in England got to gambling on a certain occasion, and lost his all; in a desperate emergency, went out on to the highway and committed a robbery, for which he was sent to Botany Bay for 14 years; escaped in about three weeks, and returned to Baltimore; joined the crew of a privateer, took a prize, was put on board, managed to get the command, carried her into an eastern port, and disposed of her cargo for \$10,000, but was cheated out of the most of it; next went to Amelia Island, took charge of another privateer, captured a Danish merchantman, (which was piracy,) and sold the cargo for \$16,000; was to have returned to his vessel, to divide the money with the crew, but, learning that they intended to take his life, came to New-York with \$14,000, and entered into the mercantile business; in about a year, went to the east to see about the other prize money, was apprehended on the way and lodged in jail for piracy, escaped by the assistance of a prostitute, and went to the West Indies; in a short time returned to Philadelphia, and went to making Spanish coin, of which he was convicted, and sentenced 5 years to the state-prison; pardoned in three years and a half; after a voyage to South America, took a trip into the western states; in Michigan got to gambling, lost all his money, stole it back again, together with two watches, and started for the east; on his way, in Pennsylvania, robbed a gentleman's pocket of \$150, which he gambled away in Erie county in this state, where he soon committed another large robbery, and was convicted of grand larceny, Sept. 9, 1825, and sentenced to this prison for 5 years; which, he says, ends his chapter of crimes. Has a decent common education. Discharged by expiration of sentence.

No. 465.—A. V.—Age 36; born in New-Jersey; brought up well, by good parents; was a steady young man, and in respectable standing; constable and collector three years; when he came to settle up his accounts as constable, found himself a defaulter; felt chagrined and discouraged, and took to drinking; before he came here, had become a perfect sot; for weeks together, has not seen a sober hour, day or night; education decent. Convicted of grand larceny, in Cayuga county, September 9, 1825, and sentenced 5 years. Says he broke open a grocery store in this village. Discharged by expiration of sentence.

No. 466.—S. A. T.—(Mulatto girl.)—Age 26; born in Savannah, Geo.; her mother was a slave; master moved into this state when she was 12 or 13; ran away from him in a year or two; resorted to houses of ill fame, and lived in loose habits till she came to prison; has had two children; has been in the habits of drinking and stealing ever since she left her master; has learnt to read some in prison. Convicted of grand larceny, in Columbia county, Sept. 10, 1827, and sentenced 3 years and 1 day. Discharged by expiration of sentence.

No. 467.—P. B.—(Black man.)—Don't know his age, (about 25;) born in Greene county; was a slave till the emancipation in this state; brought up without any education, or religious instruction; ran away from his master when about eighteen; was glad to get back, but soon had difficulty with his master, who told him to

go off and never be seen on his premises again; went over to Columbia county, and was sent to jail for 30 days for stealing an umbrella; his master got him out before the time expired, but he was soon convicted of petit larceny, 2d offence, in the same county, and sentenced to this prison 3 years and 1 day. Has many times been guilty of petty thefts. Did not know a letter when he came here; has learnt to read a little in the prison Sunday school. Discharged by expiration of sentence, Sept. 11, 1830.

No. 468.—J. O.—Age 39; born in Albany county; his mother died when he was 6; lived with his father till 18, and then went off and enlisted; was in the army the most of the time till his conviction; was flogged more in the army than in prison; became a great drunkard, and made nothing of stealing; about six months after his discharge was convicted of grand larceny, in Albany county, and sentenced 7 years to the old prison. Transferred to this in 1825. Went to school some in his youth, but was "such a gump of a fellow" that he could not learn; had no religious instruction or parental restraint. Discharged by expiration of sentence, September 12, 1830. He is a very stupid and depraved man.

No. 469.—C. M.—Age 28; born in Vermont; his parents had difficulty, and separated when he was small; was bound out to a drunken, abusive man, and ran away; bound himself out, and served seven years at blacksmithing, in Saratoga county; afterwards roved about the state a great deal; became very intemperate; has been in the habit of petty stealing all his days; several times in jail for it; was sentenced to Oneida county jail six months for stealing a watch; undertook to break jail, of which he was convicted, September 15, 1827, and sentenced to this prison 3 years. Has got nearly all his knowledge of reading and writing in the prison Sunday school. Discharged by expiration of sentence.

No. 470.—N. R.—Age 36; born in New-Hampshire; lost his parents in childhood; was well brought up by a brother-in-law, his guardian; his father left him some property, and at 21 went into the mercantile business; fell into intemperate habits, and failed about two years before conviction; came out into this state to collect some debts; stayed away from his family nearly two years, but intending to return; took a \$10 counterfeit bill, where he could get nothing else; and passed it; of which he was convicted in Monroe county, September 24, 1823, and sentenced 7 years. Had a decent education, but was brought up with loose views as to morals. Discharged by expiration of sentence.

No. 471.—John Doe.—Mulatto. (True name, I. M. Says he refused to tell the court his name, for the sake of his good mother.) Age 26; born in Upper Canada; his parents separated when he was quite young, on account of jealousies between them; he lived with a neighbor till 14; after that was employed on the lakes most of the time till he came here; three or four years before conviction; took to drinking, and from that time was half drunk almost every day; started for New-York to go to sea; in Utica broke open a trunk that was intrusted to him to carry to the packet-boat, and was convicted of grand larceny, September 27, 1825, and sentenced 5 years. Could read only in one or two syllables when he came to prison;

has learnt in the prison Sunday school to read and cipher well, and to write some; scarcely ever went to a religious meeting; knew no difference between the days of the week. Discharged by expiration of sentence.

No. 472.—H. F.—Age 31; born in Saratoga county; never lived with his parents much after he was 11; his father, a man of loose habits, died when he was about 15; he followed butchering chiefly; kept the lowest company, and fell into vicious habits, drinking, gambling, frequenting bad houses, &c; felt no religious restraint; had no education; commenced with the *abs* in the prison Sunday school. Convicted of petit larceny, 2d offence, in Rensselaer county, September 27, 1827, and sentenced 3 years and 1 day. Says he had got crazy by drinking; was thought to be really deranged, in jail. Discharged by expiration of sentence.

No. 473.—W. L.—Age 29; born in Ireland; left his parents when about 13, and has not seen them since; lived with his sister in Scotland about a year, had a quarrel with her, went off and enlisted, was in the army till 1813, and then deserted from Kingston, U. C.; soon married in Cheraugo county; had trouble with his wife in a few months, and she left him, which was the occasion of his taking to strong drink; used to have some drunken frolics before, but never till after this time was habitually intemperate; has been addicted to other vices also, gambling, lewdness, &c.; no education; barely knew the alphabet when he entered the prison Sunday school. Convicted of petit larceny, 2d offence, in Madison county, October 2, 1827, and sentenced 3 years and 1 day. Has been in jail for the same crime more than once before. Discharged by expiration of sentence.

No. 474.—J. H.—Age 24; born in Otsego county; his father was an abusive, drinking man, and treated him cruelly; used to knock him down with any thing he could lay hold of, and drive him out into the snow without shoes; ran away from home when about 12, and wandered from place to place, begging and stealing his victuals and clothes, and frequently sleeping in barns, till he was able to earn his living; afterwards got into the habit of excessive drinking, and used to spend all his wages for rum; has been a thief all his life; was in jail for petit larceny when so small that his companions put him through the diamond hole; knew his letters only when he entered the prison Sunday school. Convicted of petit larceny, 2d offence, in Seneca county, October 5, 1826, and sentenced 4 years. Discharged by expiration of sentence.

No. 475.—S. S.—Age 22; born in Monroe county; lost his father when he was quite young; has always lived at home, and since he was old enough, supported his aged mother; never addicted to any vicious habits; has a decent education; was brought up under good instruction and example. Convicted of passing counterfeit money, in Onondaga county, September 12, 1829, and sentenced 7 years.—Had gone into that county to work, a few months before; got into the company of some fellows who were convicted with him, and was induced by their flattering stories to commit his first crime; passed ten dollars, and was on his way with S. H. to get more, intending to follow it. Discharged by pardon, October 5, 1830. There

is reason to believe, from other sources, that this is a true account of the case.

No. 476.—J. B.—Age 22 ; born in Vermont ; lost his father in infancy ; was bound out to a farmer in this state, whose cruel treatment induced him to run away ; has fared better in prison than he did with him ; being almost naked, took some tow cloth for clothes from his master when he went away, who advertised him, and offered \$36 for his apprehension ; had been a pretty steady boy till this time, but now became dissipated and vicious, and took to stealing ; has been in jail for petit larceny ; could not read in reading when he came to prison ; has learnt to read, write and cipher in the Sunday school. Convicted of grand larceny, in Clinton county, October 6, 1827, and sentenced 3 years. Discharged by expiration of sentence.

No. 477.—N. G.—Age 22 ; born and brought up in Clinton county ; ran away from a good home when he was about 18, because his father struck him with a bridle for talking saucy ; went into Canada and staid a few months, and then returned to Clinton county, but not to his father's ; went to work in an iron foundry, and stole 700 lbs. of iron, which he sold for \$30. Convicted of grand larceny, in Clinton county, October 6, 1827, and sentenced 3 years. It was his first offence ; parents were good pious people, and brought him up well, though with little education ; has been in the prison Sunday school, and improved considerably. Discharged by expiration of sentence.

No. 478.—A. V. C.—Age 27 ; born and brought up in Clinton county ; his father was a loose, drinking man, and brought his children up to that and other bad habits ; he has been very intemperate and every way vicious from childhood ; has been in the army ; frequently in jail for one misdemeanor or another ; has a younger brother in this prison for receiving stolen goods ; had no early education ; has learnt to read a little in the prison Sunday school. Convicted of petit larceny, 2d offence, in Clinton county, October 6, 1827, and sentenced 3 years. Discharged by expiration of sentence. A poor ignorant, half-witted, lazy fellow.

No. 479.—J. H.—Age 34 ; born in Ireland ; came to this country with his parents 18 years ago, and lived with them six years afterwards ; was sober, steady and industrious till within two years of his conviction, when he began to be dissipated and intemperate ; did not become a confirmed drunkard, but the habit was fast gaining upon him ; has a decent common education. Convicted of grand larceny in Oneida county, October 8, 1825, and sentenced 5 years. Says that L. (No. 480) led him into the difficulty, which L. confesses. Discharged by expiration of sentence.

No. 480.—T. L.—Age 26 ; born in Ireland ; was a hard, disobedient child ; when about 17 ran away from his parents, enlisted ; came to Canada in the army about 7 years ago, and immediately after deserted ; the army was a school of vice to him, and he was an apt scholar ; gave himself up to drinking, stealing, &c. and was ripe for crime when he came into this state ; went to work on the canal ; had a severe sickness, was destitute, and became desperate ; persuaded H. (No. 479) to go with him, with the intention of making

him an accomplice in a large burglary ; failing in his main design, determined not to return empty handed, and stole a quantity of wearing apparel. Convicted of grand larceny, in Oneida county, October 8, 1825, and sentenced 5 years. Can read and write, but very poorly. Discharged by expiration of sentence.

No. 481.—D. W.—Age 29 ; born in Cayuga county ; his father spent a handsome property by drinking and gambling ; brought him up to gambling from a child, and he has followed it ever since ; has been famous for it, frequently sent for from different parts of the country, where there was any large business of the kind going on ; has followed horse-racing a great deal ; kept horses for that purpose ; has passed considerable counterfeit money, but only in gambling ; his pursuits led him to drinking of course ; has occasionally run horses on Sunday ; decent common education. Convicted of grand larceny, in Genesee county, October 9, 1827, and sentenced 3 years and 1 day. Took a horse in payment of a note which a fellow had given him in settling up a gambling account ; the horse proved to have been stolen, and when it came out the fellow was missing. Discharged by expiration of sentence.

No. 482.—H. H.—Age 42 ; born in Massachusetts ; lived with parents, under no very good instruction or example, till he was about 20 ; then enlisted into the army ; got into many bad habits, gambling, horse-racing, &c. ; after his discharge went to keeping public house, drank too much, lost his property, became a perfect sot, and took to stealing. Convicted of petit larceny 2d offence, in St. Lawrence county, October 11, 1827, and sentenced 3 years and 1 day. Education poor, but such as to enable him to do common business. Discharged by expiration of sentence.

No. 483.—D. O.—Age 33 ; born in Washington county ; lost his father when he was 8 ; lived with his mother mostly till 14 ; then went to work in Allegany county, and in a few years, by hard labour, bought a farm, and nearly paid for it ; about this time became rather unsteady, and took it into his head to go down to Natchez with a raft ; was exposed to yellow fever, and in self defence kept above fever heat by drinking spirits ; was drunk half the time, lost his raft, and more too ; after taking a jaunt through the western states, returned, and soon run his farm out by drinking ; went to work again by the month ; his employer offered him in payment a yoke of oxen, which he took and sold ; the woman thought it more than they owed him, and made a fuss about it ; had him advertised and prosecuted, and he was so foolish as to plead guilty ; says they could not have convicted him. Convicted of grand larceny, in Monroe county, October 13, 1827, and sentenced 3 years. Decent common education. Discharged by expiration of sentence.

No. 484.—S. S.—Age 25 ; born in New-Jersey ; lost his father in infancy ; brought up in the city of New-York ; was frequently put to trades, but always ran away ; his mother could not govern him nor please him ; began to steal very early ; had high drinking frolics, but not habitually intemperate ; frequently got into the watch-house, and once into the penitentiary for 6 months ; no early education ; would not go to school ; has learnt some in prison. Convicted of grand larceny, in New-York, October 19, 1822, and

sentenced 14 years. Transferred to this prison in 1825. He was one of the four who broke open some houses in the infested district, during the prevalence of yellow fever. Discharged by pardon, October 19, 1830. His health is considerably impaired.

No. 485.—J. Y.—Age 38; born in Orange county, where he lived with his parents till 16; then bound to a blacksmith, from whom he ran away in about a year; then went to work at glass-blowing, which he followed chiefly till he went to prison; was very unsteady; wandered about a great deal in different states; early got to drinking, and continued it till the time of his conviction; had a very poor education, and very little religious instruction. Convicted of passing counterfeit money, in Ulster county, Oct. 9, 1823, and sentenced 14 years to the old prison. Transferred to this in 1825. Says he passed about \$30, and had several hundreds on hand, intending to make it his business; was acquainted with a gang. Discharged by pardon, Oct. 19, 1830. Leaves the prison in a very feeble state of health.

No. 486.—E. H. G.—Age 37; born on Long Island; his father died when he was 17; took charge of the family, and was sober, honest and industrious, till within a few years of his conviction; was then unfortunate as to property, discouraged, took to drinking, and became a sot and a thief; has been guilty of many small crimes; education poor. Convicted of petit larceny, on three indictments, in Oswego county, Sept. 21, 1827, and sentenced 9 years and 3 days. Discharged by pardon, Oct. 19, 1830.

No. 487.—G. B.—True name J. C. Age 40; born in England; enlisted into the army against the will of his parents; became intemperate and otherwise vicious; deserted from the army in Canada about seven years ago; the old habit increased upon him till he became a beastly drunkard, and wholly given up to vicious practices. Convicted of petit larceny, 2d offence, in Rensselaer county, May 21, 1827, and sentenced 5 years. Frequently detected in stealing little articles, and often in the watch-house; stole only for the purpose of getting rum. Can read tolerably well, but only write his name. Discharged by pardon, Oct. 19, 1830.

No. 488.—Y. F.—Negro.—Age 35; born and brought up in Montgomery county; has been a slave; brought up in perfect ignorance, and disregard of every thing serious; horse-racing and cock-fighting on Sunday were his favorite amusements; his master kept race-horses, and was a very loose, intemperate man; he did not know a letter when he came to prison, and had no sense of moral obligation; would not take a thousand dollars for what he has learnt in the Sunday school. Convicted of perjury, in Montgomery county, Sept. 10, 1828, and sentenced 4 years. Used to drink some, but not very hard. Discharged by pardon, Oct. 9, 1830.

No. 489.—P. P. P.—Age 30; born in Connecticut, whence his parents moved into this state when he was 14; his habits have always been correct, and his character fair; has a decent common education. Convicted of forgery, in Monroe county, Sept. 2, 1829, and sentenced 3 years. Declares that he is innocent—and there is some reason to believe him. Discharged by pardon, Oct. 19, 1830.

No. 490.—T. O.—Age 31; born in Ireland; lost his father when he was quite young; brought up to shoemaking; came to this country the year after the war; was always steady and correct in his habits till after his wife's death, about four years since, when he took to drinking, and drank "terrible hard" till he came to prison; can read only by spelling the words. Convicted of perjury, in Monroe county, June 18, 1829, and sentenced 3 years. Swore he had no property; and *that*, in the eye of the law, depended on the legality or illegality of the instrument by which he had conveyed it away in good faith; the transaction was found to be illegal, and he was therefore still the lawful possessor of property which he supposed was another man's, and so guilty of perjury. Discharged by pardon, Oct. 19, 1830.

No. 491.—J. O.—Age 26; born in Albany; brought up in the city of New-York; father never married to his mother, but married another woman when he was quite small; lived with his father and worked at his business (butchering) till he was 17, with the promise of having his stall and stand; but he then sold it, and told him to look out for himself; was addicted to every vice but intemperance; never could drink liquor; learnt to read and write, but very poorly. Convicted of grand larceny, in New-York, Sept. 14, 1822, and sentenced 14 years to the old prison. Transferred to this in 1824. Guilty of plundering the infected district. Discharged by pardon, Oct. 28, 1830.

No. 492.—M. R. S.—Age 33; born in Massachusetts; bound out to a trade at 10; ran away from his master in four or five years, and wandered about the country, with no other business than stealing, gambling, &c.; when about 19, commenced passing counterfeit money, with a well-organized gang, extending from Whitehall to Baltimore; in connection with counterfeit money, this gang also carried on horse-stealing, house-breaking, highway robbery, &c.; was engaged with them about four years; thinks he has passed 4 or 5000 dollars of bad money; has frequently got into jail, and almost as often broke out; the gang assisted each other in such cases; was convicted of grand larceny, in Ontario county, May 19, 1820, and sentenced to this prison 5 years; pardoned Aug. 27, 1823; left the prison, determined on revenge; got some more money from Slab City, Canada, and went at it again; passed several hundred dollars, and was again arrested. Convicted of passing counterfeit money, in Ontario county, Jan. 24, 1824, and sentenced 7 years. At the time he was arrested, handed a large quantity to J. W. who carried it home, which was the means of his (W.'s) mother's conviction, it being found in her house. No early education; learnt to read, write and cipher chiefly in the prison Sunday school. Has sometimes drank too much, but not habitually. Discharged by pardon, Oct. 28, 1830. [Pardoned three months before the expiration of his sentence, to redeem a pledge given him in case he would disclose some important facts at the time of his conviction.] This man leaves two of his brothers in prison, and one other has been in.

No. 493.—J. McN.—Age 64; born in New-Jersey; lived with parents till of age; was a steady young man, and continued so till

after his wife died, about fifteen years ago; when he broke up housekeeping, and went about from place to place; soon got to drinking too freely, became very intemperate, and at length took to stealing; education decent. Convicted of petit larceny 2d offence, in Montgomery county, Nov. 22, 1827, and sentenced 3 years. Was intoxicated, and was found asleep by the side of the road the morning after, with a shirt and table-cloth under his arm. Discharged by expiration of sentence.

No. 494.—D. B.—Age 57; born in Massachusetts; lived with his parents till 25, a steady, industrious young man; then married, and soon after came into Genesee county and bought a good farm by the sweat of his brow, which he still owns; has a wife, “as smart as a steel trap,” and seven children, who are as dear to him as any man’s children; six or seven years ago became intemperate, and has been made to suffer for it. Convicted of assault to murder (his son,) in Genesee county, April 9, 1827, and sentenced 7 years. Was at work with him in the field, with a bottle of whiskey in his pocket, got offended at him, and *was told* that he stabbed him in his breast. Can read and write a little; never had much to do with religion. Discharged by pardon, Nov. 23, 1830.

No. 495.—P. M.—A Canadian Frenchman, thinks his age is about 26; born in Lower Canada; lived with his parents in Quebec till he was 10; left them because he was a “black sheep” among the children; followed the water mostly after this, coasting and fishing in Nova Scotia; got into some bad habits, intemperance the worst. Convicted of grand larceny, in Essex county, June 22, 1826, and sentenced 7 years. Had been in the state but a few days; was drunk when he committed the crime; as soon as he got sober was sorry and told the whole; his counsel tried to make him plead not guilty, but he would not. Learnt his letters in the prison school. Discharged by pardon, Nov. 23, 1830.

No. 496.—A. B.—Age 34; born in Schenectady county; lost his father when about 9; was bound out to a farmer, with whom he lived till 21; was a good, steady, faithful boy; did very well for some years after; got a snug little property; but misfortune after misfortune came, till he was entirely reduced, discouraged and desperate; resorted to the bottle to drown sorrow, and to fraudulent and criminal practices to retrieve his fortune; stole 400 dollars worth of cloth from a fulling-mill, was suspected, went off in 1823, and has not seen his family since; had previously got to dealing in counterfeit money on a small scale, now commenced on a large scale; has passed thousands of dollars; bought 800 dollars worth of wool with it of an unsuspecting farmer, in Dutchess county; deposited his wool with the brother of a well-known counterfeiter, in New-Jersey, and was cheated out of the whole; once escaped from his pursuers in New-York, by being locked up in a butcher’s box and carried over to Jersey. Convicted of grand larceny, in Montgomery county, March 17, 1827, and sentenced 4 years. Was closely pursued for passing counterfeit money, and took his brother’s horse to get out of the way; was tried only for that; had \$14,000 of bad money at the time of his arrest, which he concealed

in the snow. His education is rather poor, has been in the prison school. Discharged by pardon, Dec. 4, 1830. [Pardoned on account of making important disclosures to the keeper.]

No. 497.—C. W.—(Mulatto girl)—Age 24; born in Otsego county; lived in Albany mostly, till six years ago, when, having got into loose habits, went down to New-York and lived as a prostitute; has had a child, which died in three months; came up to Albany to see Strang hung; met with O. R., an old acquaintance, (now in this prison,) went with him to Troy, and took some articles, which he had stolen, for safe keeping. Convicted of receiving stolen goods, in Rensselaer county, Dec. 5, 1827, and sentenced 3 years and one day. Can read tolerably well; has sometimes been drunk. Discharged by expiration of sentence.

No. 498.—O. B.—Age 21; born in Connecticut, and lived there with his parents till just before his conviction; was well brought up, with a decent common education, and never addicted to any worse habits than are common to decent boys. On his way to Washington county, to live with a brother, was offered a good sum to take a horse from Greenbush to Stephentown, which he agreed to do; the pretended owner accompanied him a few miles, and then told him that the horse was stolen, and, by adding a new hat to the reward, induced him still to proceed. He was taken with the horse, and his employer was missing. Convicted of grand larceny, in Rensselaer county, Dec. 5, 1827, and sentenced 3 years and one day. Discharged by expiration of sentence.

No. 499.—R. W. alias C.—Age 36; born in Pennsylvania; went to sea when he was but 10, and followed it most of the time till he was 22, either in the merchant service, privateering, or U. S. navy, chiefly in the latter; was in the Mediterranean with Lieut. (since Com.) Porter, under Com. Bainbridge; wrecked off Tripoli, taken with the rest of the crew, and imprisoned 14 months in the castle; was in the actions on lakes Erie and Champlain, and under Com. Chauncey, on lake Ontario; in the Mediterranean the second time with Com. Bainbridge; discharged at Boston in 1816; lived there seven or eight years; became acquainted with Daniel Webster! thinks him decidedly the greatest man in the United States; afterwards married, and lived in various places; had become very intemperate in the navy, which was the reason of his getting into this difficulty; has a decent common education. Convicted of grand larceny, in Rensselaer county, Dec. 5, 1827, and sentenced 3 years and 1 day. Was not guilty; a man left in his care a valice and some other articles, which proved to have been stolen, and were found with him; had lost \$250 at this same man's faro bank a few days previous. Discharged by expiration of sentence.

No. 500.—E. L.—Age 69; born in Connecticut; when about 12, enlisted into the revolutionary army, and was in the service four or five years; has always been a good, benevolent, honest man, addicted to no bad habit but intemperance; says he never stole a sheep, nor any other cattle; never pulled off his coat to fight in his life; learnt to read a little when young, and went half a day to a writing school. Convicted of manslaughter, in Tompkins county, Dec. 31, 1825, and sentenced 14 years. Says he went down to the village

one day, and saw some fellows making great squirt gun; asked them what they were going to do with that; they said they were going to raise the devil with Mary that night, and asked him if he would'nt go along; he asked them if they thought he was so big a fool as to go to cutting up such capers with his own daughter; sure enough, at night the rabble came, and went to tearing down his daughter's house; he took his gun and shot in among them, but did'nt mean to kill any body; it seemed as though he *must* take his gun; started without it, but *could not get along*; his daughter's husband had left her, and the neighbours seemed to have a spite against her. Discharged by pardon, Dec. 11, 1830.

No. 501.—J. L.—Age 23; born in the Isle of France; parents French; soon moved to Corsica, and thence in about 9 years to Quebec, where he served six years at the printing business, and then ran away on account of ill treatment; came out to Albany and worked a few weeks in the Argus office; then in New-York; in returning to Canada, being destitute of money, stole a rifle to get money to bear his expenses. Convicted of grand larceny in Lewis county, December 14, 1827, and sentenced 3 years and 1 day.—Says he has been a great drinker, and a great blasphemer; decent French education, but little English. Discharged by expiration of sentence..

No. 502.—N. B. S.—Age 19; born in Schenectady county; has generally lived with his parents; his father a man of loose morals; has never worked much at any business; idle and vicious; in bad company a great deal; frequently in jail, once 6 months for petit larceny. Convicted of breaking jail, in Oswego county, February 4, 1830, and sentenced 3 years. Was in jail for burglary, of which he was acquitted. Has been to school considerable, but never learnt much. Discharged by pardon, December 15, 1830.

No. 503.—L. J. D.—Age 45; born in Dutchess county; was brought up in the city of New-York, an apprentice to a harness-maker, a good man, and very strict with him; after his time was out, became more loose in his habits, and vicious; in 1817, was convicted of grand larceny in the city, and sentenced to 4 years, pardoned in about 2; the prison proved to him a school of vice; came out ten-fold worse than he went in; and immediately plunged into crime again. Convicted of passing counterfeit money, in Rensselaer county, December 16, 1820, and sentenced 10 years to the old prison again. Transferred to this in 1825. Never attended any other than evening schools, and can barely read and write a little. Discharged by expiration of sentence. He leaves a brother in prison, on a 14 years' sentence.

No. 504.—J. B.—Age 21; born in Ireland; convicted of grand larceny in Jefferson county, December 17, 1827, and sentenced 3 years and 1 day. Could read but very poorly when taken into the prison Sunday school. This man became insane about three weeks before the expiration of his sentence, and remains so still; was sound in body and mind till that time; on account of his derangement, and consequent sickness, he was kept in the prison hospital two days after the expiration of his sentence. Discharged December 20, 1830, and taken to the poor-house.

No 505.—C. W.—Age 50 ; born in Massachusetts ; lived with his parents till he was 27 ; his father was once a member of the N. Y. Legislature, and judge of a county ; his connexions are very respectable ; was so himself till the late war, when he commenced keeping tavern, and became intemperate ; when intoxicated he is quarrelsome ; has several times been worth a handsome property, but as often lost it ; owns a farm now ; has a decent common education ; never troubled himself much about religion. Convicted of perjury, in Chautauque county, April 28, 1830, and sentenced 2 years. Was summoned to answer for treating a man rather roughly, who called upon him with a school-bill ; swore he did not know that he was under keepers, which, as he is almost deaf, might have been the truth. Discharged by pardon, Dec. 22, 1830.

AGES.	Number.	Decent education.	Very poor education.	No education.	Intemperate.	Lost or left parents when young.
Under 20,	7	1	5	1	3	2
Between 20 and 30,	47	6	20	21	27	19
“ 30 and 40,	35	13	14	8	29	14
“ 40 and 50,	10	3	5	2	7	5
“ 50 and 60,	11	4	5	2	10	3
“ 60 and 70,	3	1	2	0	3	1
	113	28	51	34	79	43

IN SENATE,

January 25, 1831.

REPORT

Of the Committee on Banks and Insurance Companies, on the petitions of the inhabitants of the county of Herkimer, relative to the establishment of a Bank at the village of Little-Falls.

Mr. Allen, from the committee on banks and insurance companies, to which was referred the several petitions of the inhabitants of the county of Herkimer, praying for the establishment of a bank at the village of Little-Falls,

REPORTED AS FOLLOWS :

That the petitioners are numerous, amounting to more than *six hundred* persons ; and they urge on the consideration of the Legislature, as an inducement to grant the prayer of the petition, the increased prosperity and business of the county of Herkimer ; that the establishment of a bank is required for the aid and facility of the commercial and manufacturing operations carried on in said county ; that the location of a bank at the place designated, would be secure of a business that would induce capitalists to embark in its establishment, and aid in its permanent support ; that such an institution would prove a great encouragement to enterprise, and a sure development of the resources of productive industry.

The committee have been furnished with a brief statistical account of the growing business of the county of Herkimer, and more particularly, of the village of Little-Falls, where it is intended this bank shall be located.

The population of the county is estimated at about 37,000 ; and the village of Little-Falls, at about 1,200.

The produce of the county, bought at the village and sent from thence to a market, amounted, as per estimate, to near \$200,000 per annum : it consisted, principally, of cheese, clover-seed, barley, oats, potashes and salt.

• The village contains nine dry goods stores, five storehouses for the reception of produce from the country ; one distillery, the proprietor of which has annually purchased and used twenty-two thousand bushels of rye and corn ; three paper-mills, two iron founderies, two tanneries, two asheries, two grist-mills, two saw-mills, two fulling-mills, one brewery and three malt-houses. In addition to these, there may be added the various mechanical operations and other pursuits carried on in a populous village, and requiring occasional accommodation from a monied institution.

There are about *fifty* establishments in different parts of the county, of the same description as the above ; such as paper-mills, cotton factories, asheries, tanneries and distilleries : the business of one of these tanneries averages *fifty thousand dollars per annum*, and a manufactory of wagons, which amounts to *twenty thousand dollars annually*. The general produce of the county is stated to be fully equal to any section of the state, containing the same quantity of land.

The foregoing information has been furnished the committee by gentlemen who are well known by one of their number, and who assures us that full faith and confidence may be placed in the veracity of those who have collected and forwarded the information.

The village of Little-Falls, as the committee are informed and believe, is the principal mart for the product of the county, and is destined, when its immense water privileges shall be brought into operation, to become a place of extensive business and much resort. Its progress in population and improvement, to the present period, and its prospects for the future, are such as to commend the application of the petitioners to the favorable consideration of the Legislature.

The operation of the system of banking is now so well understood, that it needs no elucidation from the committee, to illustrate its utility and accommodation to the trading and manufacturing por-

tion of our citizens. That the petitioners have shown the propriety of establishing a bank at the place designated, the committee believe, will not be disputed by any who are disposed to place confidence in the view which has been furnished of the business carried on at the village of Little-Falls, and other parts of the county of Herkimer.

The committee have no desire to recommend an undue increase of our banking institutions ; but they are nevertheless of opinion, that in well established communities, where it is pretty evident the business of the place will sustain a bank of moderate capital, and when there is a fair prospect that men of wealth will invest their funds in its stock, such an institution ought to be authorised. A judicious and equitable distribution of banking institutions, is what the people have a right to expect from the Legislature ; and when such distribution shall be made with judgment and proper discretion, there will be no danger of the result being any other than salutary and beneficial.

The people of Herkimer are now compelled to repair to Utica, more than twenty miles distant, for the accommodation they may require in the prosecution of their business ; which is an inconvenience, in the opinion of the committee, they ought not, under present circumstances, be subjected to.

The committee, having duly reflected on the subject, have come to the conclusion to recommend that the prayer of the petitioners be granted, and they have accordingly prepared a bill, and directed their chairman to introduce the same.

No. 17.

IN SENATE.

January 22, 1831.

ANNUAL REPORT

**Of Robert Barnes, an Inspector of Hops, for the
county of New-York.**

To the Honourable the Legislature of the State of New-York.

The hop inspector respectfully sheweth :—In conformity with the state laws on the subject of inspection, I herewith transmit to the Legislature a statement of all the hops inspected by me during the last twelve months, ending 1st mo. 1st, 1831.

Inspector's Report for the City of New-York, for the year 1830.

606 bales of hops, 127,840 lbs., average price, say, 12½ cts	\$15,980
Inspector's fees at 10 cents per 100 lbs.,.....	\$127 84
Deduct for extra labor, materials, and other incidental expenses, at 3½ cents per bale,	21 21
Inspector's available funds, (no emoluments)	106 63

From the inadequate means, as stated above, towards supporting a competent judge of the article of hops, I respectfully solicit the legislature to abolish the Albany Inspection, on all hops exported from the state.

Shipments when confined to a single brand, would render it more hazardous for those making encroachments on our state laws, which in some degree is followed, and by superior management, rendered difficult of detection.

ROBERT BARNES.

New-York, 1st mo. 1st January, 1831.

IN SENATE,

January 26, 1831.

REPORT

**Of the Committee on Finance on the subject of
Frauds on the Revenue, at Salina.**

Mr. Todd, from the committee on finance, to which was referred so much of the message of his Excellency the Governor, as relates to the frauds committed on the revenue at Salina, and also the resolution of the Senate, adopted on the 17th inst., requiring information on the same subject from the officers of the government at that place,

REPORTED—

That from the examination which it has been in the power of the committee to bestow upon the matters so referred, it appears that for a long time frauds have been committed by the removal of salt from the village of Salina without the payment of the duties by law chargeable thereon. We have not been able to ascertain the commencement of this practice, and indeed there appears no certain means of ascertaining it anterior to the establishment of the collectors office on the canal at that place.

The manner in which the business of that office has been conducted has aided essentially in developing the extent to which the fraud has been carried since its establishment. By comparing the books of the superintendent and inspector, in which entry is, or ought to be made, of all salt inspected, with the entries in the books of the collector of tolls of the quantity passed the office, if they agreed, it

would be quite satisfactory that all salt shipped had been inspected and the duties paid upon it ; but if the quantity shipped far exceeded the quantity inspected and entered upon the books, it would be equally evident that the excess shipped had evaded the payment of the duties which ought to have been paid thereon.

As the quantity of salt actually inspected and entered on the books of the superintendent and inspector was annually increasing, and as the revenue arising from the salt duties was also annually increasing, all suspicion of fraud was allayed, or rather the officers in charge of the works found no cause to stimulate them to inquire as to the existence of fraudulent practices, which were not suspected to exist, we have been unable to ascertain how suspicion was first excited, and perhaps it is not necessary for the purpose of legislation upon this subject.

The explosion, as it is called, took place early in July last. By a comparison of the quantity of salt inspected and entered on the books of the superintendent and inspector, with that which had been shipped, the excess of the latter was so great as to produce conviction that extensive frauds had been committed.

The collector's office at Salina was opened about the 9th of June, 1828. The comparison of entrys showed the following result:— That in the year 1828, after the opening of the collector's office and during the season of navigation on the canal, thirty thousand bushels of salt had been cleared more than was entered upon the superintendent's and inspector's books. In the year 1829, the excess of salt shipped, over that inspected and entered, was ninety-seven thousand bushels ; and in the months of April, May and June, 1830, thirty-three thousand bushels appear to have passed the collector's office, more than was inspected and entered upon the proper books—making in the whole, one hundred and sixty thousand bushels of salt which had passed the collector's office since its establishment in June, 1828, without the payment of duties. In addition to the quantity thus taken away by water must be added that which is supposed to have been taken away by land. We have no means of ascertaining with certainty the quantity which has been taken away in the latter mode ; but from the information before the committee, it cannot be estimated at less than fifteen thousand bushels. The amount of which the revenue has been defrauded by these evasions of the payment of duties exceeds twenty thousand dollars.

The manner of perpetrating these frauds was by a connivance between the deputy inspector and the manufacturer, by which either no certificate should be made for a certain part of the salt inspected and branded, or that two bills or certificates should be made out, one for one hundred barrels and the other for two hundred (supposing the quantity to be inspected to be three hundred barrels).—The former would be presented at the superintendent's office and the duties paid thereon, the other would be returned and never produced unless in case of alarm for fear of detection, and would then be offered with the excuse that it was an inadvertent omission, or neglect of a clerk. The amount of which the revenue was defrauded by this connivance was divided between the fraudulent deputy and conniving manufacturer, until the commencement of the last season, when in consequence of the great extension of this business, the one-half was deemed too great a proportion for the deputy inspector, and he was put upon half allowance, by having his share reduced to one quarter.

Another species of fraud was also committed, the effect of which fell upon the consumer of the salt. This was done by overmarking the weight of the barrels. The manufacturer, in the first instance paid, and the state received, the duty on this excess; but as the manufacturer sold at the marks, he was reimbursed the duty, and gained the value of the overmarking.

At the time of the discovery of the commission of these frauds, two deputy inspectors, through whose depravity they were committed, absconded, and although efforts have been made by individuals, and the Executive has applied to the Governor of Vermont to have them arrested as fugitives from justice, and has also applied to the governors of Upper and Lower Canada for assistance to apprehend them, still they have not been arrested and are now at large, privately moving from place to place, to avoid being arrested and delivered over to the civil authority for trial. No specific charges against any of the officers at Salina have appeared before the committee, except the two deputies before mentioned, and we have no reason to suppose that any smuggling has been carried on since the discovery of that practice in July last. It is understood that suits have been commenced against some of the manufacturers to recover the penalties imposed for the removal of salt without the payment of duties; but whether there is any evidence to warrant such proceedings, the committee are not informed. Indeed, it would seem

that the conduct of the individuals who have participated in the fraud was not a subject of inquiry for this committee, and they have not directed their attention to it: the means for such an inquiry were not within their reach. Their object was—first, to be satisfied that frauds had been committed; and secondly, to devise means to prevent a repetition of them in future.

Being satisfied upon the first point, that frauds to a very great extent have been committed, the attention of the committee was then directed to the means of preventing and of detecting such as should violate the laws in relation to the duties on salt.

It is believed that the collectors' offices may be made useful in checking all attempts to ship salt without the payment of duties, and of detecting such as shall make the attempt. We are not sure that the course we shall recommend is free from objections, or that a better may not be provided: none has occurred to us which promises more utility.

We would recommend that legislative provision be made, prohibiting the inspection of fine salt which shall not be branded with the name of the manufacturer on each barrel offered for inspection; that the collector who makes the original clearance require from each shipper, under oath, a bill of parcels containing the brand and marks of each cask, which shall be entered in his book of clearances. This mode of entering the salt would enable the superintendent, at any time, on examining the collector's books, which it should be his duty to do, to ascertain the quantity of salt of any particular manufacture which had been shipped, and by whom, and by a comparison with his own books he could learn whether any establishment had shipped, and by whom, a greater quantity than that upon which the duties were paid. Such comparison of books should be made often, or copies of the entries furnished to the superintendent, from which at his leisure he might make the comparison.

To guard against the fraud committed by overmarking the quantity of salt in each barrel, it should be made the duty of the weighmaster, where the salt is cleared, or at the first office where it can be weighed, to weigh each boat loaded with salt. This would prove a check on false marking, if it was carried to any great extent. Little difficulty is apprehended from this course, for every vigilant dealer and every consumer, when the least suspicion is excited, will buy by weight, and not by the marks on the barrel.

This subject is one of great interest, and there is an impatience to be informed of the facts which the committee could collect, as well as the course which they would recommend to be adopted in relation to it. It is this anxiety that has induced the committee to submit this report without being accompanied by a bill to carry into effect the suggestions herein made. Time has been wanting to prepare a bill with the necessary details. As soon as it can be matured, it will be submitted to the consideration of the Senate.

IN SENATE,

January 27, 1831.

COMMUNICATION,

**Of the Surveyor-General in relation to the Public
Lands.**

To the President of the Senate.

SIR—

There are some cases, relating to the public lands, which I consider it my duty respectfully to submit for the consideration of the Legislature.

In 1827, the Surveyor-General made a communication to the Honorable the Assembly, (see the Journal of that year, page 270,) stating that there was a tract of upwards of one thousand acres of land, belonging to the state, along Wood Creek, in the county of Oneida, the disposal of which had not been provided for by law. The committee to which this communication, together with a petition from sundry inhabitants residing on the land, was referred, reported a bill for the sale of it, (see page 864, of the same Journal,) but it does not appear that further proceedings were had in relation to it. The interest of the state seems to require that this property be sold. The pre-emptive right might be given, as has been done in similar instances, to the occupants, of farms of a limited extent, including their respective improvements, for such considerations as shall appear, from appraisements, to be the value of the soil in a state of nature.

At page 32, of the Appendix to the Journal of the Senate of 1829, is a statement of public lands in the St. Regis Reservation, still enjoyed by the original occupants, without yielding any emolument to the state. These lands it has been found impracticable to

sell, under existing laws. They continue in the same condition in which they were when the statement just mentioned was made.

In pursuance of the act, chap. 245, passed April 3, 1821, the lands reserved for military purposes, within the mile square, in the St. Regis Reservation, were leased for the term of ten years, which will expire next April. These lands consist of two parcels, containing together about sixty acres. They command the pass by water from Canada to the village of Fort Covington, and were fortified in the last war. The Commissioners appointed in pursuance of the act, chap. 194, passed April 20, 1818, considering that this ground might possibly at some future time be required for the same purpose, did not include it in the allotment of the mile square. It now remains with the Legislature to direct further proceeding in relation to this property.

I avail myself of this occasion to observe, that by the Revised Statutes, part 1, chap. 2, title 6, it is directed that, whenever a county or town is to be erected or altered, an authenticated survey of it shall be presented to the legislature, and filed in the Surveyor-General's office. Since the passing of this act no map has been filed in conformity with its requirement, and unless it be enforced the Surveyor-General will not have it in his power fully to perform the duty enjoined on him by the 2d section of title 6, chap. 8, without resorting to the expensive process authorised by the next succeeding section. Instances frequently occur, in which the bounds of towns cannot be delineated on the map of the state from the mere description given by the acts of the Legislature.

I have the honor to be,

Most respectfully,

Your obedient humble servt.

SIMEON DE WITT, *Surv. Gen.*

The President of the Senate.

January 27, 1831.

IN SENATE,

January 27, 1831.

REPORT

Of the Trustees of the Seamen's Savings Bank.

The board of Trustees of the Seamen's Bank of Savings, in compliance with the requisitions of their charter,

REPORT :

That the institution having been duly organized, commenced its operations on the 11th May, 1829, since which time, until 31st-December, 1830, a period of nearly 20 months, there has been received from 468 depositors the amount of \$62,719 45.

These depositors are all persons engaged in a sea-faring life, or their immediate connexions; and when it is considered how difficult it is to make known to such persons the existence of an institution thus calculated for their benefit, and how much time it must require to lead those to adopt a habit of saving, who have been little accustomed to it, the amount received, though comparatively small, will be esteemed of sufficient importance, in this early stage of these operations, to justify the expectations which the friends of this establishment have formed of its utility.

In addition to the above amount of deposits, there has been received for interest on the investments made and from the deposits in bank, 1,702 38

Making the total of receipts for deposits and interest, .. \$64,421 83

Of this sum there has been repaid to depositors,

\$27,180 99

Amount carried forward,

Amount brought forward,	
The amount invested in public stocks pointed out by the provisions of the charter have been made as follows, viz :	
In stock of the state of Ohio, ..	16,193 87
In stock of the state of New-York,	11,579 20
In stock of the corporation of the city of New-York,	5,513 75
	<hr/> 33,286 82
Amount of expenses to 31st December, 1830,	628 71
	<hr/>
Making the total amount of repayments on deposits, investments, and of expenditures,	\$61,096 52
	<hr/>
And leaving a balance in the Treasurer's hands uninvested on the 1st January, 1831, of	\$3,325 31
	<hr/> <hr/>

The investments in public stocks continuing unchanged, have improved somewhat in value, taking into view the interest received from them; and by the liberality of one of the banks of this city, the trustees have been enabled to draw a portion of interest on balances at times uninvested; and with this advantage, and by pursuing a rigid economy, the interest of the bank on deposits remaining the requisite length of time, have fully equalled the rate of interest at first anticipated, viz. five per cent per annum, exclusive of expenses.

The expectations indulged that seamen will gradually acquire the important habit of saving before alluded to, and which is a principal object of the establishment of this bank, appear amply warranted by the fact, that during the first ten months of these operations, the amount of deposits was scarcely \$19,000, whereas during the succeeding or last ten months, the amount deposited has been upwards of \$44,000.

The ratio of this progressive increase, evincing the acceptableness of the institution, and affording abundant encouragement to believe that its usefulness will augment in proportion as its nature and design become known and appreciated.

N. TAYLOR, *President.*

E. H. HUK, *Secretary.*

IN. SENATE,

January 29, 1831.

REPORT

Of the Secretary of State, relative to the distribution
and sale of the Revised Statutes.

STATE OF NEW-YORK, }
SECRETARY'S OFFICE. }

Albany, Jan. 28, 1831.

The Secretary of State, on whom the act passed December 10th, 1828, imposed certain duties in relation to the distribution and sale of the Revised Statutes, considers it incumbent on him to present to the Legislature an account of his stewardship in executing the provisions of that act.

The Revised Statutes which were printed and delivered to the Secretary of State, consisted of 4,500 sets, of 3 volumes each set; [614 copies of the 3d volume are yet to be delivered,].... 4,500

These volumes have been disposed of as follows:
Sent to county treasurers for sale, 2,048 sets, of which 54
have been returned, leaving 1,994
Delivered to the county clerks and certain other
officers, a list of which are given in Schedule A. 1,335
Sold at the Secretary's office,..... 605
Remaining on hand in do. 566
----- 4,500

Of the 605 sets sold at this office, 101 sets were sold to individuals, at 10 dollars each, amounting to \$1,010 00
The residue of sales at this office, 504 sets, were made
to booksellers and agents, at a discount of five per
cent, the proceeds being 4,788 00

Total amount of sales at this office,..... \$5,798 00
[S. No. 22.] 1

The Secretary of State has the receipts of the Treasurer, countersigned by the Comptroller, and numbered from 1 to 46, Schedule B, for..... \$5,730 50
 There are balances due from two booksellers in New-York, amounting to 67 50
 \$5,798 00

In obedience to the act concerning the Revised Statutes, chapter 20, 2d session of 1828, the Secretary of State transmitted 2,048 sets of the Statutes to the county treasurers, accompanied by the circular marked C. The treasurers are required, within six months after receiving the Statutes, to render an account to the Secretary of State, and pay into the treasury ten dollars for each set sold, deducting a commission of 5 per cent. The table marked D, is an abstract of the accounts with the treasurers of the several counties. It will be seen by this abstract, that 1,630 sets have been sold by the treasurers, and that 453 remain unsold, 54 of which have been returned to this office. The total amount of sales by the several treasurers, is \$14,886 ; deduct for commissions at 5 per cent, \$742, and there will remain \$14,144 00
 There has actually been paid into the treasury during the past year, on account of sales by the treasurers, 12,636 82

Balance due from treasurers on account of sales, . \$1,507 18

The expense of paper, printing, and binding the edition of 4,500 sets, is as follows :

To David Carson and Zenas Crane, for paper,	\$12,307 05
“ Packard & Van Benthuyssen, for printing 1st, 2d and 3d volumes,	7,559 08
“ William Seymour, for binding 5,625 volumes of 1st, 2d and 3d,	3,127 50
“ B. D. Packard & Co. do do do	3,127 50
“ Packard & Van Benthuyssen, for binding 2,250 of the 3d volume,	1,282 50
Total cost of the edition,	\$27,403 63
The total amount of the sales already made of the Revised Statutes, is.....	19,942 00
	<u>\$7,461 63</u>

Showing that the sales already made come within \$7,461.63 of the whole cost of the edition. To this balance may be added \$385.38 as the cost of transporting the Statutes to the county treasurers, and \$365.37 for transporting them to the clerks of counties; making the balance \$8,212.38. There are about 1,000 sets of Statutes in the hands of treasurers and in this office, the proceeds of which would be \$9,500; and it is perhaps reasonable to expect that enough of those remaining may be sold to indemnify the State entirely for the cost of the whole edition of the Revised Statutes, notwithstanding thirteen hundred and thirty-five sets have been delivered to the several town and county clerks of the State, and to various other public officers, free from any charge whatever. The sets thus given away, at the average price of the Statutes, \$6.09, would amount to \$8,130.15 cents; which, deducted from the total cost of the publication, would show that the sales already made, more than cover the expense of the edition, if those distributed gratis are excepted.

A. C. FLAGG.

DOCUMENTS.

(A.)

Memorandum of the number of sets of the Revised Statutes delivered by the Secretary of State, to persons entitled thereto by law, or concurrent resolution of the Senate and Assembly.

Officers entitled to the Statutes.	No. of sets delivered.
Governor, Chancellor and three Judges Supreme Court,....	5
Comptroller, Treasurer, Surveyor-General and Secretary of State,	4
Attorney-General, Adjutant-General, Commissary-General, State Librarian,	3
Clerk of the Senate, for senate chamber,	1
Clerk of Assembly, for assembly chamber,....	18
Four clerks of the supreme court,	40
Clerk of the superior court New-York,.....	4
Eight circuit judges,	1
Albany Atheneum and New-York Atheneum,.....	8
New-York Historical Society,	2
Secretary of State of the United States,	1
Agents of the state prisons,.....	4
Three Canal Commissioners,	2
Revisers,.....	3
Fifty-five county clerks,	30
Fifty-five district-attornies,....	55
Fifty-five supervisor's clerks,.....	55
Clerks of towns and wards,.....	55
Members of the Legislature of 1827 and 1828,	778
	266
	<hr/>
	1,335

(B.)

The following sums have been paid into the Treasury for Revised Statutes, sold at this office and receipts taken therefor.

No. of receipt.	Date of receipt.	Amount.
1	September 1st, 1829,	\$166 50
2	" 4th, "	126 00
3	" 7th, "	142 00
4	" 11th, "	125 00
5	" 16th, "	125 00
6	" 22d, "	95 00
7	" 25th, "	49 00
8	October 6th, "	86 50
9	" 10th, "	38 50
10	" 19th, "	144 50
11	" 21st, "	57 00
12	" 26th, "	110 00
13	" 30th, "	77 50
14	November 3d, "	67 00
15	" 16th, "	57 50
16	" 19th, "	136 50
17	" 25th, "	83 00
18	December 2d, "	162 00
19	" 10th, "	76 00
20	" 16th, "	124 50
21	" 24th, "	277 97
22	January 2d, 1830,	228 50
23	" 7th, "	267 00
24	" 16th, "	173 00
25	" 25th, "	106 50
26	February 5th, "	183 50
27	" 16th, "	96 00
28	" 23d, "	257 03
29	March 13th, "	200 50
30	" 30th, "	563 50
31	April 15th, "	57 50
32	" 26th, "	59 50
33	May 6th, "	190 00
34	" 20th, "	58 00
35	August 7th, "	124 50
36	Septem. 18th, "	173 50
37	October 9th, "	48 00
38	" 20th, "	86 00
39	November 24th, "	50 00

Number of receipt.	Date of receipt.	Amount.
40	December 1st, 1830,	95 00
41	" 4th, "	68 50
42	" 13th, "	49 00
43	" 14th, "	76 00
44	" 21st, "	125 50
45	January 7th, 1831,	28 50
46	" 27th, "	38 50
		<hr/> \$5,730 50

(C.)

Extract from an act of the Legislature of the State of New-York, entitled "An act concerning the Revised Statutes," passed December 10, 1828.

§ 28. Of the remaining copies [of the Revised Statutes,] the secretary of state shall transmit as early as possible, at the expense of the state, to the county treasurer of each county, such a number as will make sixteen copies for each member that such county is entitled by law to send to the house of assembly of this state, to be sold by such county treasurer to inhabitants of his county, at the price of ten dollars for each set of three volumes, and but one copy to any individual.

§ 29. Every county treasurer receiving such copies, shall immediately advertise the same for sale, and within six months thereafter account to the secretary of state for the copies received. He shall return the copies unsold by him, or shall make such other disposition of them as the secretary shall direct; and he shall transmit and pay to the treasurer of this state, at the rate of ten dollars for each set of three volumes received by him, which shall not be so sold or returned, or otherwise disposed of as herein directed, deducting from such amount a commission at the rate of five per cent., which such county treasurer is hereby authorised to retain.

§ 30. If any county treasurer shall neglect or refuse to render an account, or to return any of the copies received by him, or to pay the price thereof, as in the last section prescribed, he shall be personally liable for the copies received by him, at the price of eighteen dollars for each set of three volumes, with interest thereon from the time of the receipt of such copies; and it shall be the duty of the secretary of state to direct prosecutions to be commenced for the collection of such sums, in the name and for the benefit of the people of this state.

STATE OF NEW-YORK, }
SECRETARY'S OFFICE. }

Albany, July 1829.

SIR—

Pursuant to the act of which the above is an extract, I have this day delivered to Douglass & Dunn, of this city copies of the 1st and 2d volumes of the Revised Statutes of this State, to be forwarded to you with as little delay as possible, in order to be sold in the manner directed by the act aforesaid. When the third volume is ready, the same number of copies will be forwarded.

The 3d volume will contain so much of the Revised Statutes as comprises the descriptions of counties and towns, together with a collection of acts, not revised, relating to special justices in cities, and other local and special acts in relation to highways, fisheries,

&c. ; a list of the counties and towns ; a list of acts of incorporation ; a list of ferries and toll bridges not incorporated ; and a list of all other acts not revised nor republished, in force at the time the Revised Statutes take effect, and which were passed since the 6th of April, 1813.

As the *first* and *second* volumes contain the entire text of the Revised Statutes, (with the exception of the descriptions of counties and towns,) it has been deemed advisable to distribute them without waiting for the publication of the *third* volume. The price for the *three* volumes is fixed by the act referred to at *ten* dollars ; which sum of *ten* dollars must in every case be exacted on the delivery of the 1st and 2d volumes ; and you can specify in the receipt to the individual, that it is in full for the 3d volume, to be delivered as soon as the same is received by the county treasurer.

You will see by the 28th section, that the Revised Statutes are to be sold to *inhabitants of your county*, and *but one copy, or set, to any individual*. The 29th section requires you to pay into the treasury, *ten* dollars for each set of three volumes received and sold by you, deducting 5 per cent., which you are allowed to retain : therefore, the expense of advertising must be paid by yourself.

☞ Immediately on the receipt of the boxes, they should be opened, and so far exposed to the air as to secure the books against the effects of mildew, arising from moisture to which they may have been exposed.

☞ It is necessary that you should without delay transmit to this office a receipt for the books, according to the enclosed form ; and stating also, whether the same were in good condition, and whether all the charges of transportation were paid : if otherwise, state the particulars.

I am, very respectfully,

Your obedient servant,

A. C. FLAGG, *Secretary*.

The Treasurer of the county of

(D.)

COUNTIES.	Number of members.	Number of sets sent.	Total amount.	Number of sets unsold.	Number of sets sold.	Amount of sales.	5 per cent commission.	Total amount paid into the treasury.	
Albany,	3	48	\$480 00	40	8	\$80 00	4 00	\$76 00	40 returned.
Allegany,	1	16	160 00	8	8	80 00	4 00	76 00	
Broome,	1	16	160 00	..	16	160 00	8 00	152 00	
Cattaraugus,	1	16	160 00	3	13	130 00	6 50	123 50	75 cartage.
Cayuga,	4	64	640 00	13	51	510 00	25 50	484 50	Returned 13 sets.
Chautauque,	2	32	320 00	1	31	310 00	15 50	294 50	1 returned.
Chenango,	3	48	480 00	24	24	340 00	12 00	227 82	
Clinton,	1	16	160 00	..	16	160 00	8 00	152 00	
Columbia,	3	48	480 00	..	48	480 00	24 00	456 00	
Cortland,	2	32	320 00	16	16	160 00	8 00	152 00	
Delaware,	2	32	320 00	15	17	170 00	8 50	161 50	
Dutchess,	4	64	640 00	..	64	640 00,	32 00	608 00	
Erie,	2	32	320 00	4	28	280 00	14 00	266 00	
Essex,	1	16	160 00	..	16	160 00	8 00	unpaid.	
Franklin,	1	16	160 00	..	..	.....	....	100 00	
Genesee,	3	48	480 00	16	32	320 00	16 00	300 00	
Greene,	2	32	320 00	19	13	190 00	6 50	183 50	
Herkimer,	3	48	480 00	9	39	390 00	19 50	376 00	Unpaid 94.

Jefferson,.....	3	48	480 00	28	20	200 00	10 00	unpaid.	
Kings,	1	16	160 00	..	16	160 00	8 00	152 00	
Lewis,.....	1	16	160 00	7	9	90 00	4 50	unpaid.	
Livingston,.....	2	32	320 00	12	20	200 00	10 00	190 00	
Madison,.....	3	48	480 00	33	15	150 00	7 50	142 50	
Monroe,.....	3	48	480 00	..	48	480 00	24 00	456 00	
Montgomery,	3	48	480 00	..	..	.....	....	220 00	
New-York,.....	11	176	1760 00	..	176	1760 00	88 00	1672 00	
Niagara,.....	1	16	160 00	..	16	160 00	8 00	152 00	
Oneida,	5	80	800 00	22	58	580 00	29 00	494 00	\$51 due.
Onondaga,	4	64	640 00	1	63	630 00	31 50	500 00	
Ontario,	3	48	480 00	11	37	370 00	18 50	unpaid.	
Orange,	3	48	480 00	..	48	480 00	24 00	456 00	
Orleans,.....	1	16	160 00	1	150	150 00	7 00	100 00	41.50 due.
Oswego,	1	16	160 00	..	16	160 00	8 00	152 00	
Otsego,	4	64	640 00	37	37	370 00	18 50	\$49 50	
Putnam,.....	1	16	160 00	1	15	150 00	7 50	142 50	
Queens,.....	1	16	160 00	..	16	160 00	8 00	152 00	
Rensselaer,.....	4	64	640 00	21	43	430 00	21 50	380 00	38.50 due.
Richmond,.....	1	16	160 00	..	16	160 00	8 00	152 00	
Rockland,	1	16	160 00	..	16	160 00	8 00	153 00	
Saratoga,.....	3	48	480 00	..	*	*no report.	....	unpaid.	
Schenectady,.....	1	16	160 00	..	16	160 00	8 00	128 00	24 due.
Schoharie,.....	2	32	320 00	15	17	170 00	8 50	142 50	19 due.
Seneca,.....	2	32	320 00	8	24	240 00	12 00	100 00	
St. Lawrence,.....	3	32	320 00	..	32	320 00	16 00	304 00	
Steuben,	2	32	320 00	25	7	70 00	3 50	66 50	
Suffolk,	3	32	320 00	3	29	290 00	14 50	261 00	14.50 due.

COUNTIES.	Number of members.	Number of sets paid.	Total amount.	Number of sets unsold.	Number of sets sold.	Amount of sales.	\$ per cent. commission.	Total amount paid into the treasury.
Sullivan,	1	16	\$160 00	..	16	16 00	6 00	152 00
Tioga,	3	32	320 00	4	28	280 00	10 00	266 00
Tompkins,	3	48	480 00	21	27	270 00	13 50	200 00
Ulster,	2	32	320 00	..	32	320 00	16 00	304 00
Warren,	1	16	160 00	7	9	90 00	4 50	85 50
Washington,	3	48	480 00	22	26	260 00	13 00	unpaid.
Wayne,	2	32	320 00	3	29	290 00	14 50	unpaid.
Westchester,	3	48	480 00	3	45	450 00	22 50	427 50
Yates,	1	16	160 00	..	16	160 00	8 00	152 00
	128	2048	\$20,480 00	453	1630	\$14,886 00	\$742 50	\$19,636 82

No. 23.

IN SENATE,

January 27, 1831.

ANNUAL REPORT

**Of D. B. Young, an Inspector of Fish, in and for the
city and county of New-York.**

To the Honourable the Legislature of the State of New-York,

The inspector of fish for the city and county of New-York.

REPORTS:—

That he has inspected 2,684 barrels No. 3 mackerel, and 100 half barrels No. 3 mackerel, from 1st May, 1830, to the first January, 1831.

Value,..... \$6,847 00

FEEES.

Inspecting 2,684, barrels No. 3 mackerel at 12½ cents...	\$335 50
do. 100 half do. do. do. ...	12 50

\$348 00

Expenses,.....	60 00
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\$288 00

D. B. YOUNG,
Inspector.

New-York, Jan. 18, 1831.

—

IN SENATE,

January 31, 1831.

MESSAGE

Of the Governor, transmitting a communication from Smith Thompson, one of the judges of the supreme court of the U. S., relative to the trial of the causes on the claim of John Jacob Astor.

TO THE SENATE.

GENTLEMEN—

I have received the enclosed communication, and deem it due to the source from whence it comes, to transmit it to your body.

E. T. THROOP.

Albany, January 29, 1831.

COMMUNICATION.

Washington, January 17, 1831.

SIR,

I have lately seen the communication made to you by the Attorney-General of the State of New-York, concerning the trials in the circuit court of the United States in relation to the claim of Mr. Astor ; and which, I presume, is the report to which you refer in your late message to the Legislature. This communication seems to contain a complaint, that the charge of the court to the jury was not allowed to be incorporated in the bills of exceptions. As the Attorney-General has thought proper to withhold from you the grounds upon which the charge was stricken out of the bills of exceptions, justice to the court requires that they should be made known. It is unnecessary to enter into the inquiry, whether or not the charge, as presented by the Attorney-General, was correct in point of fact. It was considered improper to be inserted in the bills, so far only as it purported to be a mere commentary of the court upon the evidence in the causes. A great number of questions which had arisen in the course of the trials, involving questions of law, had been reduced to writing ; and the court was called upon to express its opinion upon them, which was done. And it is believed that these specific points contained every question of law that could arise upon the charge. These points, and the answers of the court upon them, were all contained in the bills of exceptions. But when the bills of exceptions were presented for settlement, the counsel was told, that if the specific questions stated did not embrace every question of law that could arise, or if any particular part of the charge deemed exceptionable, would be pointed out, it should be incorporated in the bills of exceptions ; but that the charge, so far as it was a mere commentary upon the evidence, ought not to be included ; and no exceptionable parts being designated, the charge was stricken out, in order to conform in point of practice to the opinion of the supreme court of the United States in the case of *Carver vs. Jackson ex dem. Astor and others*, (4 Peters' Rep. 80). The court there say, "we take this occasion to express our decided disapprobation of the practice (which seems of late to have gained ground) of bringing the charge of the court below at length before this court for review. It is an unauthorised practice, and extremely inconvenient, both to the inferior and to the appellate court. With the charge of the court to the jury upon mere matters of fact, and its commentaries upon the weight of evidence, this court has nothing to do. Observations of that nature are understood to be addressed to the jury merely for their consideration, as the ultimate judges of matters of fact, and are entitled to no more weight or importance than the jury in the exercise of their own judgment choose to give them. They neither are, nor are they understood to be, binding upon them, as the

true and conclusive exposition of the evidence. If indeed in the summing up, the court should mistake the law, that would justly furnish a ground for exception. But the exception should be strictly confined to that misstatement; and by being made known at the moment, would often enable the court to correct an erroneous impression, or to explain or qualify it in such a manner, as to make it wholly unexceptionable, or perfectly distinct. We trust, therefore, that this court will hereafter be spared the necessity of examining the general bearing of such charges."

The circuit court could certainly have no desire to withhold from the review of the supreme court, every question of law that could possibly arise in the cases, or any other question that could properly be brought under review, according to the course and practice of the court. More than ordinary indulgence in this respect had been shewn by the circuit court, in the case of Carver above referred to, where the whole charge was put into the bill of exceptions. But after the pointed disapprobation of the court with respect to such practice, it would have been censurable in the circuit court, to have allowed the mere commentary on the evidence to be incorporated in the bills of exceptions. And the practice required by the supreme court of the United States, is believed to be in conformity with the practice of the supreme court of the State of New-York, and all other courts, where causes are reviewed upon bills of exception.

As the letter of the Attorney-General has been communicated by your Excellency to the legislature, it is respectfully submitted to you whether it will not be proper also to communicate this letter, to prevent any erroneous impressions being made in relation to this subject.

I am, very respectfully,

Your obedient servant,

SMITH THOMPSON.

His Excellency Governor THROOP.

No. 25.

IN SENATE,

January 31, 1831.

MEMORIAL

**Of the Manufacturers and others, interested in the
making of Salt, in the County of Onondaga.**

*To the Honorable the Legislature of the State of New-York, in
Senate and Assembly convened.*

The memorial of the manufacturers and others, interested in the
making of Salt, in the county of Onondaga,

RESPECTFULLY REPRESENTS:

That, in consequence of the support afforded to their manufacture by the national duty of twenty cents per bushel, hitherto imposed on foreign salt, they have been able to sustain a partial competition therewith, at Troy and Albany, attended by a diminution in the price, at those places, of more than one-fifth, and encountering the embarrassing effects of the state tax upon their own, have so far extended the works for its production, that the quantity made during the last year was nearly double of that made in the year 1826; and, also, notwithstanding its exclusion, attributable solely to the tax, from the greatest and most valuable markets in this state, (along the river Hudson from Albany to New-York,) and the more distant western districts, the gradual enlargement of their establishments would, most probably have continued, but for the unexpected withdrawing of that support, by a reduction of the duty, of which five cents are already annulled, and other five will cease at the expiration of the present year; an oppressive reduction, which compels your memorialists, in the prospect of almost utter ruin to their business, and insufferable distress to their families, to present this application for relief and protection; under an impression that the legislature has

the authority and disposition to grant them ; without which, much of the capital invested, as it admits of no diversion to other employment, must be sacrificed ; and the owners, reduced to extreme destitution, be driven to other occupations for subsistence.

It is expected that, in future, the price of foreign salt will be lessened, as much as the amount of the repealed duty, (and the bare anticipation has produced already a great depression,) which amount exceeds the net value of coarse salt at Syracuse, and is nearly double that of the fine in Salina, and will inevitably, under existing circumstances, expel the home manufacture from the markets of the Hudson, and not improbably from Utica.

Another fact, of important bearing on the question, and alarming to your memorialists, is the dissatisfaction, generally prevalent, especially among the consumers of our salt in other States, with the enormous impost, which, they allege, is unparalleled in this country, being 200 per cent. on its value at the works, and renders them tributary to the revenue of New-York. They, therefore, not only have an interest in direct opposition to its continuance, but manifest much feeling, which, if not attended to and allayed, will be concentrated, and most likely result in a repeal of the remaining moiety of the United States' duty. If this ensue, supposing all accommodation withheld from our produce, and no abatement in the tax, which is 18 cents, and, including canal toll to Troy or Buffalo, 21 cents, on the measured bushel of coarse salt, the introduction of the foreign article will then be aided by an indirect bounty of that amount, besides an exemption from a tariff of 28 cents, and be transported by the Mississippi, Ohio river and canal, to Lake Erie on the one side, and on the other, by the River Hudson and Erie canal to Salina itself ; and farther, by the Pennsylvania canals and rail-ways to Ithaca, without the possibility of prevention on the part of your memorialists.

The amount of capital embraced by their manufacture, and necessary for its conveyance to the more distant consumers, may be estimated at 1,500,000 dollars, and the population dependant thereon about ten thousand souls, both of which, in the event supposed, would be most injuriously affected.

There is no question that the brine of the Onondaga salt springs is inexhaustable ; the more extended, therefore, the manufacture,

and consequently the competition, the greater the certainty of a moderate price to the purchaser, and greater also, the security against monopoly and speculation; and still greater, the benefit to the State at large, which, in case of foreign hostility, or any interruption of our commerce, would possess the means of supply for itself, with a considerable portion of the adjacent states, of an article, indispensable in domestic economy, and of inestimable value.

Your memorialists, apprised of the prohibitory clause in the constitution, relative to the duty on salt, and the canal tolls, and altogether unprovided with any definite proposition for that assistance of which they are so much in need, will confine themselves to the observation, that any measures, (as suggested in the message of his Excellency the Governor,) which shall establish this important branch of industry, on a footing of permanent equality with every other avocation in the State, either by a constitutional alteration, as soon as practicable, of the clause alluded to, and furnishing, during the time required for that purpose, the aid necessary to preserve their works from deterioration and impending destruction; or, by the adoption of regulations that shall immediately countervail the principal difficulties, will instantly advance this great interest of the State, and simultaneously protect and promote that of your memorialists.

Believing that the inhibition adverted to was specially intended for the preservation of the canal revenue, your memorialists request permission to state, as their conviction, that that object will be the most fully attained, by extending to the domestic manufacture of salt every facility and encouragement of which it is susceptible; and, that its advancement or declension will certainly be accompanied by a corresponding increase or defalcation, of the revenue thence to be derived.

Arrangements that should remove every unnecessary impediment, and facilitate instead of obstructing the exportation of Onondaga and other western salt, would, it is most confidently believed, augment, with prodigious rapidity, the production of the article, (to which there are no apparent limits,) so that after five years, as many millions of bushels with a progressive increase, might be annually manufactured; the tolls upon which, and that portion of the tax which may be retained, would surpass the amount received the last year, from those two sources.

The necessities of your memorialists requiring, as is apprehended, no farther illustration, to entitle them to favorable attention, are, with deference, accordingly submitted to the consideration of your Honorable body.

January, 1831.

Stephen Smith,
M. Woodruff,
A. B. Potter,
B. F. Knapp,
Elisha Phillips,
David Stewartt,
Tyler Dodge,
Roswell Stute,
Philo D. Mickles,
Henry Van Vleck,
Wm. H. Clarke,
Aaron Kenney,
I. Bunce,
Joseph Abbot,
Thomas Dóyle,
Tho's Wilson,
Dean Richmond,
Richard Sanger, jr.
James Wilson,
Alfred Williams,
Enos D. Hopping,
W. Kirkpatrick,
I. C. Schoonmaker,
C. C. Schoonmaker,
C. B. Aspinwall,
Martin Luther,
Charles Barber,
N. Woodruff,
C. Phipps,
Erasmus Stone,
John Bargess,
John J. Hopper,
George Kelsey,
Richard Hiscock,
Cady Hiscock,
John Grinnell,

Henry I. Webb,
Elisha C. Smith,
H. F. Harroun,
J. R. Beach,
Russell Hebbard,
Johnson Gorgen,
Peter Stoke, jr.
George Phillips,
Peter B. Whitney,
Wm. I. Elting,
A. Northam,
Richard Woolworth,
George W. Bacon,
Henry Davis, jr.
James Little,
B. N. Sweet,
Sterling Crow,
J. J. Briggs,
James S. Ward,
T. D. Herbert,
Saul C. Upson,
Junius Wood,
T. Wood,
Mars Nearing,
Jno. Whetzger,
Joseph M. Queen,
Jefferson Butterfield,
George O'Neil,
Gideon Hill,
E. Reed,
Abisha Thomas,
F. Kelley,
Philip Ostrander,
Lewis Routh,
Jesse Guminten,
John Paddock,

**Nathaniel W. Jones,
James E. Thoyer,
David Haskin,
James Perkins,
Truman Adams,
Sylvanus De Wolf,
Thomas Baun,
Smith Elliot,
Joel Willard,
J. P. Hicks,
Oliver R. Clark,
Ichabod Mathews,
Joseph Hasbrook,
Jesse Bailey,
John W. Nelson,
John McDurman,
Sherman Morehouse,
W. W. Case,
Dudley Lamb,
A. Van Ostrand,
Robert O'Neil,
Wm. Wentworth,
Daniel Griffin,
Daniel Moshee,
Ira C. Brand,
John Forger,
James Thayer,
Norman Morehouse,
S. C. Starr,
H. N. Cheney,
S. R. Howlett,
Franklin Braga,
Zenos Corbin,
Zurial Clement,
William C. Montelville,
Ambrose Ingersoll,
Peter Myers,
Hugh Brown,
Wm. Sturges,
John Patterson,
John Hoffman,
Samuel N. Burlugh,**

**John Painter,
Seneca Birch,
John Haskin,
A. C. Griswold,
John N. Harvey,
Daniel Chase,
John Woodruff,
J. Johnson,
S. W. Carter,
Samuel Hill,
Erastus Schermerhorn,
Silvester Clark,
Asa Foot,
John Chamberlin,
Lansing G. Haskin,
Joel Wright,
Henry H. Eaton,
Julius C. Grilley,
A. J. Whitmore,
Charles B. Holumly,
Platt Cady,
John Davidson,
Daniel Gilbert,
John Brigham,
A. Freeland,
A. Crane,
Elizur Bissell,
Hamilton D. Risley,
Wm. B. Church,
Gurdin Hoskison,
Wm. Clark,
D. W. Hollister,
R. Smith Davidson,
Lewis Willson,
Henry Barns,
Henry Wright,
Henry Hinckley,
M. Tinner,
A. M'Donald,
Seth K. Cary,
Lyman Clary,
Leurell Merrill,**

Richard W. Clark,
Dennis McCarthy,
Patrick Drew,
Wm. Gay,
Francis F. Power,
Hubbard Hochking,
M. V. Vleck,
Lucius B. Babbitt,
Joseph Austin,
Elijah Alger,
Alexander I. Stather,
H. M. Peck,
M. P. Walker,
S. R. Mathews,
P. B. Bill,
Isaac Van Tassel,
Peleg Green,
H. Tubbs,
B. F. Williams,
H. Corvin,
E. M. Knapp,
A. L. Bull,
C. Woodruff,
John Segan,
R. Woodruff,
A. N. Van Patten,
Samuel Larned,
John H. Johnson,
A. F. Field,
J. Turner,
N. Kelsey,
Luther Hiscock,
James Murphy,
W. D. Stewart,
Voltaire Newton,
M. D. Conklin,
Carter Jackman,
Richard Malony,
W. W. Becut,
Th. Wheeler,
James J. Rice,
Benjamin B. Lain,

R. I. Brockway,
Alson Woodruff,
Shelden Swaney,
Parley Hawlett,
John Sabin,
A. Yelverton, jr.
Wm. B. Kirth,
John Lord,
S. Tiffany,
Francis Rood,
N. J. Roosevelt,
Philander A. Underwood,
Benjamin W. Adams,
James Cronkhite,
Hiram Adams,
Jeptho Wilkins,
Amaziah Franklin,
Stephen Smith,
Allen H. Cully,
J. G. Willard,
Jeshard Morehouse,
Oliver S. Lewis,
Handley Lamb,
H. Thompson,
Charles Blakeman,
A. D. Kinne,
Orrin Allin,
D. K. Jones,
John G. Batcheller,
Jeremiah James,
John Loop,
Samuel Jarvis,
Peter Marbett,
John Wandell,
Joseph E. Willard,
Alman Leach,
William Seeman,
William R. Danforth,
George Lee,
James Bowen,
E. Shelly,
Ebenezer Fowler,

J. G. Hasbrook,
Tho. Cole,
Job R. Weat,
Ben't P. Eldred,
D. Brown,
James M'Cord,
Thomas Rexford,
John Tinker,
John Hasbrook,
Gilbert Johnson,
John O'Neil,
L. B. Juron,
I. L. Starr,
A. C. Pool,
J. G. Putman,
D. McFarland,
Squire Brown,
Asa Gleason,
Chauncey Hick,
L. Robbins,
Archa Sealy,
John Byrnes,
Alexander Brown,
Samuel W. Brayd,
H. Ingersoll,
Peter Ingersoll,
Lyman Bogue,
Philander Hasbrook,
James Jackson,
E. Hotherell,
Ephraim Morehouse,
Samuel F. Cooper,
Uriel Goddard,
Gideon J. Marlett,
Abraham Ehle,
Ira Pomeroy, jr.
Daniel Hye,
Charles Grimes,
David Freeman,
Nehemiah Haskin,
John J. Dubois,
Bemsle Hare,

M. Boice,
S. W. Fisk,
Hunter Crane,
William Avery,
J. G. Forbes,
James Wells,
Warren Greene,
Harvey Kimball,
E. L. Adams,
William Hunn,
John Paddock,
William Clapper,
Henry Case,
Joseph Sayneth,
Reuben Norton,
C. Hubbard,
J. Corbin,
R. M. Smith,
Thomas McCarthy,
Thomas Bishop,
M. Mead,
Jacob Phillips,
Syrel Williams,
Alexander Brower,
John Leaden,
Charles Kent,
Owen McCarthy,
L. H. Redfield,
G. S. Fitch,
Ezra Foster,
M. S. Marsh,
J. C. Fulo,
H. K. Avery,
M. Williams,
Elijah Phillips,
Jonathan Day,
Gilbert B. Fish,
W. Rayner,
Wm. H. Alexander,
Josiah Wright,
John W. Hanchitt,
Samuel Clark,

Elbert Norton,
E. W. Sweetland,
Amos P. Granger,
B. C. Lathrop,
J. Moore, jr.
John Durnford,
Elam Lynds & Son,
William Malenka,
R. D. Searle,
Elijah Park,
Hiram Judson,
Geo. Hooker,
Joseph Thompson,
M. D. Burnet,
Aaron Burt,
Oliver Teal,
John Wilkinson,
G. J. M. Davis,

William Hall,
Ambrose Kasson,
John Wall,
G. N. Church,
Volney Cook,
O. Dickinson,
Daniel Dana,
Levi Chapman,
A. L. Fellows,
Jonas Mann,
Henry Newton,
B. B. Bacheller,
Ida Blair Sherman,
A. P. Hubbard,
Wm. J. Nichols,
E. Walton,
E. Sprague,
J. H. Colvin.

IN SENATE,

February 3, 1831.

REPORT

Of the Committee on the Judiciary, to which was referred the engrossed bill from the Assembly, entitled "An act for the relief of Lydia Bristow, an alien."

Mr. Beardsley, from the committee on the judiciary, to which was referred the engrossed bill from the Assembly, entitled, "An act for the relief of Lydia Bristow, an alien," with the documents accompanying the same,

REPORTED—

That the object of the bill is to vest in the said Lydia Bristow, all the right and title of the people of this State, to certain real estate in Western, Oneida county, and in the village of Brooklyn, in the county of Kings, formerly owned by William Vernon, a naturalized citizen, now deceased, and devised by him to his wife, Elizabeth Vernon, an alien, who has lately departed this life without issue, or heirs capable of taking by descent.

The said Lydia Bristow represents that she is a sister of the said William Vernon, and that it was his wish and intention that she should inherit his property after the decease of his wife.

The first objection that has suggested itself to the committee against said bill is, an omission on the part of the applicant to give notice in the county of Oneida, where part of the real estate is situated.

A more formidable objection, however, has been made since the passing of said bill in the other branch of the legislature.

A remonstrance has been submitted by Hammond Wallis, against the passage thereof, verified by his oath, who alleges that the said Elizabeth Vernon has a brother residing in England, who has a son and daughter, and that the remonstrant is in daily expectation of receiving instructions to obtain said land for her brother or his children.

The remonstrant also alleges fraud on the part of William Bristow, William R. Bristow, and Lydia Bristow, in procuring from Elizabeth Vernon, during her last illness, a certain letter of attorney to Richard Pennell, authorising him to dispose of said real estate for the benefit of said Lydia, under which he refuses to act.

Your committee are of opinion that the state should not part with its interest to the petitioner, until the relatives of the said Elizabeth Vernon have an opportunity of being heard, and are therefore, as well as for defect of notice, opposed to the passage of said bill.

IN SENATE,

February 3, 1831.

ANNUAL REPORT

Of John C. Donnelly, an Inspector of Hops for the city and county of Albany.

To the Honorable the Legislature of the State of New-York.

The inspector of hops, for the city of Albany, submits the following as his annual report. Inspected from the following counties, viz:

	Bales.	First sort.	2nd sort.	3d sort.	Refuse.
From Madison county,	372	71,748	8,875	231	
" Oneida "	144	28,778	4,640	.....	1,202
" Otsego "	29	10,757			
" Chautauque county, .	23	2,167	185	1,501	1,299
" Cattaraugus " .	16	1,587	1,781	812	
" Tompkins " .	11	.....	2,728	.....	292
" Chenango " .	9	1,393			
" Herkimer " .	2	.....	412		
	606	116,430	18,621	2,544	2,793

No. of bales, 606

116,430 lbs. first sort.

18,621 " second sort.

2,544 " third sort.

2,793 " refuse.

140,388 lbs.

Fees,	\$140 39
Deduct store rent and expenses,	60 00
	<hr/>
	\$80 39
	<hr/>

The hop market opened the last season at one shilling the pound, and maintained that price until near the close of the season, when they gradually advanced to sixteen cents: although but a small quantity sold at the last mentioned price. The quality of hops has not been so good as ought to have been from the natural growth; in consequence of not having been properly cured. Some few lots from Madison, and one particularly, from Otsego, (counties,) were as fine a quality as can be raised and cured. All which is respectfully submitted, by your obt. servant.

JNO. C. DONNELLY,
Inspector.

Albany, Feb. 2, 1831.

IN SENATE,

February 7, 1831.

REPORT

Of the Attorney-General, on the communication of the Hon. Smith Thompson, one of the Justices of the Supreme Court of the United States.

The Attorney-General, to whom was referred by the Senate, the communication of the Hon. Smith Thompson, one of the Justices of the Supreme Court of the United States, to his Excellency the Governor,

RESPECTFULLY REPORTS:

That his Honor Judge Thompson, after mentioning the late communication of the Attorney-General concerning the trials in the Circuit Court of the United States in relation to the claim of Mr. Astor, proceeds to remark—"This communication seems to contain a complaint that the charge of the court to the jury was not allowed to be incorporated in the bills of exceptions." If by "complaint," his honor the Judge means to be understood that the Attorney-General had in his communication expressed his dissatisfaction with the decision of the Circuit Court upon striking out the charge, and his intention to have that decision reviewed by an appellate court according to the ordinary forms of law, then the Attorney-General has no remark to make upon this part of the case. But if it was intended to say that the Attorney-General had attempted to arraign the Judge who presided at the trials, either before the Governor, the Legislature or the public, he hopes and believes that a sufficient answer to the allegation will be found in the communication itself.

Without saying more upon a remark that does not necessarily carry with it any censure, it will be proper to consider another part
[S. No. 28.]

of the communication of his honor the Judge, of a very different character. He says,—“As the Attorney-General has thought proper to withhold from you the grounds upon which the charge was stricken out of the bills of exceptions, justice to the Court requires that they should be made known.” And after stating those grounds, he concludes as follows—“As the letter of the Attorney-General has been communicated by your Excellency to the Legislature, it is respectfully submitted to you, whether it will not be proper also to communicate this letter, to prevent any erroneous impressions being made in relation to this subject.” If the Attorney-General has been so wanting in self-respect, to say nothing of his character as a lawyer or his duty as a citizen, as to be justly chargeable with a designed concealment of a part of the case, for the purpose of bringing odium upon the Court, he has abundantly merited the displeasure of his honor the Judge. But it is respectfully submitted that nothing was either said or omitted in the communication of the Attorney-General, which could lay a just foundation for this allegation. Nothing either in the language or statements contained in that communication has been pointed out or complained of as being offensive to the Court: but the substance of the charge made against the Attorney-General, is that he has done injustice to the Court by “withholding” a statement of the grounds upon which the charge of the Judge was stricken out. It is believed that a brief consideration of the facts will furnish a sufficient answer to this imputation. Two suits in relation to the claim of Mr. Astor had been tried, and judgments had therein been recovered in favor of the claimant, since the Legislature had been advised of the progress of that litigation. Those judgments were, in pursuance of the act of 1827 in relation to that claim, to be presented to the Supreme Court of the United States for review, “without any unnecessary delay;” and it was made the duty of the Attorney-General to “expedite” the ultimate decision of the causes. Those suits had been tried in season to have the judgments reviewed at the then approaching term of the appellate Court: but a difficulty had arisen in the settlement of the cases, which would prevent a final hearing at that time, unless what was supposed a legal right should be abandoned. The Judge had charged the jury on the trials, and the counsel for the defendants had excepted to the charges, because they were deemed objectionable in point of law. On the settlement of the bills, the Judge (for reasons which were no doubt satisfactory to him) had stricken out the charges. The counsel for the defendants, believing that the Judge had erred in this decision,

and having failed in an effort to induce the Judge to correct it, had resolved on bringing that question before the Supreme Court of the United States, by way of a motion for a mandamus to the Circuit Court, to restore the charge in the bills of exceptions. This would necessarily prevent a final hearing of the cause at the then ensuing term. Such being the case, and there being some appearance of dissatisfaction on the part of the claimant, at the prospect of delay, the Attorney-General deemed it his duty not only to inform the Legislature of the trials and judgments in the two suits, but also of the reason which would prevent a final disposition of the causes so early as might otherwise have been expected. In doing so, it was simply stated that the charge had been stricken out, and that the decision of the court upon striking it out, was deemed to be erroneous; without giving any grounds or reasons for the one opinion or the other. No improper motive was attributed to the court, nor was a single argument or suggestion made to show that it had erred in judgment. If one side of the case had been stated, while the other had been kept out of sight, there might have been ground for imputing an improper concealment, for the purpose of prejudicing the court; but as nothing was said beyond what was necessary to the legitimate object which the communication was designed to accomplish, it is believed that candid and dispassionate men will acquit the Attorney-General of the improper motives that have been attributed to him. The grounds upon which the charge had been stricken out, was not the only thing that had been omitted or "withheld" in that communication: and it might with equal justice have been said, that the Attorney-General had "thought proper to withhold" the charge delivered to the jury, or the particular grounds upon which it was deemed exceptionable, or a correspondence that had taken place in relation to the settlement of the cases, or the reasons for believing the Judge had committed an error in striking out the charge, or, in short, any other of the many things that had transpired in relation to this litigation. So far was the Attorney-General from intending any injustice to the court by the omission complained of, and others that have been alluded to, that he believed a discussion of the merits of the motion about to be made, to correct the supposed error of the Circuit Court, before the Legislature, or any other forum than that having power to correct the error, if any had intervened, would have been an irregular course, disrespectful both to the Circuit and the Supreme Court, and justly subjecting him to censure. And but for the example that his honor the Judge has furnished in his com-

munication, the Attorney-General would still have entertained the opinion, that the proper place to consider the grounds upon which the charge was stricken out, and the reasons for believing that an error in that respect had been committed, was before the Supreme Court of the United States.

The Attorney-General would have been gratified had he found himself at liberty to close this report without spreading before the Legislature, matters that properly belong to another forum. But if "justice to the court" required that the grounds upon which the charge was stricken out should be made known; and if this was necessary "to prevent any erroneous impressions being made," it is believed that it can be made apparent that ample justice to both sides of this question has not been done, nor has all danger of "erroneous impressions" been obviated by the communication of his honor the Judge. The Attorney-General will neither say nor insinuate that his honor the Judge has "thought proper to withhold" any part of the case, for the purpose of doing injustice, or creating erroneous impressions in any quarter: but it cannot be concealed that both sides of this question are not yet before the Legislature; although it must be apparent that the whole case could not but be important in a discussion of the merits of the Judge's decision. It is not however, designed to go at large into the merits of the two trials, but only to consider those things that are immediately connected with the striking out of the charge. At some other time a more extended inquiry may be proper; but at present the Attorney-General will act upon the principle with which he started, and will not appeal from the constitutional tribunals, either to the Legislature, or the public, any further than he may be urged to do so in necessary self defence.

His honor the Judge has given the reasons of the Circuit Court for striking out the charge, and after citing the case of Carver as a warrant for the practice that had been pursued, he adds, that "the practice required by the Supreme Court of the United States [in that case] is believed to be in conformity with the practice of the Supreme Court of the state of New-York, and all other courts where causes are reviewed upon bills of exceptions." It is yet to be considered what practice the Supreme Court of the United States did require or establish in the case of Carver, and secondly, whether that has any thing to do with the question in issue. Had his honor the Judge reserved his opinion in the premises, until it had

been called for in the ordinary discharge of his official duties, in the decision of the motion for a mandamus to the Circuit Court, which he was advised by the communication complained of would be brought before him and his brother for review, the Attorney-General would have felt himself bound to yield to the authority of the opinion. But inasmuch as it has been given under circumstances that make it extra-judicial, it will be regarded as a proper subject of comment in connection with the other matters bearing upon the question.

The grounds for striking out the charge are given as follows :—
“It is unnecessary to enter into the inquiry, whether or not the charge as presented by the Attorney-General was correct in point of fact. It was considered improper to be inserted in the bills so far only as it purported to be a mere commentary of the court upon the evidence in the causes. A great number of questions which had arisen in the course of the trials, involving questions of law, had been reduced to writing, and the court was called upon to express its opinion upon them, which was done. And it is believed that these specific points contained every question of law that could arise upon the charge. These points, and the answers of the court upon them, were all contained in the bills of exceptions. But when the bills of exceptions were presented for settlement, the counsel was told, that if the specific questions stated did not embrace every question of law that could arise, or if any particular part of the charge deemed exceptionable would be pointed out, it should be incorporated in the bills of exceptions ; but that the charge, so far as it was a mere commentary upon the evidence, ought not to be included, and no exceptionable parts being designated, the charge was stricken out, in order to conform in point of practice to the opinion of the Supreme Court of the United States in the case of *Carver, vs. Jackson, ex dem. Astor and others* (4 Peters’ Rep. 80.).” The fault may be, and probably is, in the Attorney-General ; but he has found some difficulty in arriving at a distinct understanding upon what particular ground his honor the Judge has placed his decision for striking out the charge. Indeed, there is a seeming discrepancy in different parts of the statement. It is intimated that the charge contained nothing more than “a mere commentary of the court upon the evidence” : and after citing the language of Mr. Justice Story, that “with the charge of the court to the jury upon mere matters of fact, and its commentaries upon the weight of evidence,” the

appellate court has nothing to do, his honor the Judge proceeds upon the basis of this opinion to say, "it would have been censurable in the Circuit Court to have allowed the mere commentary on the evidence to be incorporated in the bills of exceptions." And yet it is believed that the Judge has with sufficient distinctness admitted that his charge did contain something more than the matters alluded to. The language of the Judge at the outset, in speaking of the charge, is—"it was considered improper to be inserted in the bills, so far only as it purported to be a mere commentary of the court upon the evidence in the causes." And again, after mentioning that specific questions of law had been presented by the parties and decided by the court, he expresses the belief, "that these specific questions contained every question of law that could arise upon the charge." If the meaning of these expressions has not been misapprehended, it is conceded that the charge did go further than "a mere commentary of the court upon the evidence," and that questions of law did arise upon the charge, although the Judge thought them all embraced in the specific points. And with this admission the reasons for striking out the whole charge (without now considering what is said about a request to point out particular parts,) seem to be, that a part of the charge consisted of mere commentaries upon evidence, and "so far only" as this extended, was "considered improper to be inserted in the bills": and was therefore stricken out. And then as to "every question of law that could arise upon the charge", the Judge believed they were all embraced in the specific points that had been decided, and therefore they were also struck out. And as the charge contained nothing beyond commentaries upon the law and the facts of the case, when both of those were disposed of, the whole charge was gone of course.—However satisfactory this reasoning may be to his honor the Judge, it will demand some further consideration in the progress of this report. But before proceeding to a more particular examination of the grounds assigned for striking out the charge, it will be proper to state some facts, which if not proper to be "made known" for the purpose of correcting any "erroneous impressions", are still important in arriving at a correct conclusion upon the merits of the question.

Of the two cases tried in June last, that of Nathaniel Crane was first disposed of. And although a distinction may possibly arise between the striking out of the charge in this case, and the same question in the case of Samuel Kelly, which was the second cause tried ;

yet as both charges were entirely stricken out, and no distinction has yet been taken between the two cases, it is not supposed necessary to extend this examination beyond the single case of Nathaniel Crane.

On the trial of that cause, and after the evidence had been heard, the counsel for the defendant, in conformity to the established practice in all the federal courts, submitted written propositions, involving, as they believed, all the questions of law growing out of the evidence in the cause; and requested the Court to instruct the jury either the one way or the other upon those questions. The design of this practice was in this case (as it is in all others where it is resorted to) to obtain from the Court distinct and explicit opinions upon the law of the case; and in such a form as to preclude all debate or question about what the Court had decided, as is not uncommonly the case where an oral charge is delivered to the jury; and especially where such charge intermingles the discussion of the law with the facts of the case. The practice in question has this further recommendation, that it separates between the duty of the Court, and the province of the jury, and places them both upon the foundation assigned to them by the constitution and the laws. The counsel for the plaintiff also presented to the court in writing, such questions of law as they thought proper to raise; and the court, after consideration had, proceeded to decide the several questions thus presented. That decision for the most part consisted either in refusing the instructions asked for, on any particular point, or in giving the instruction in the words of the proposition. But in some instances the instruction was given in a modified form; and in one instance the judges of the circuit court were divided in opinion upon the question presented, and the instruction asked for was refused for that cause. A part of those questions of law were decided in favor of the views entertained by the defendant's counsel, and a part were ruled the other way, and were excepted to, on the ground that the decisions were erroneous. When the court had thus responded to all the questions of law that had occurred to either of the parties, it was supposed that nothing remained but for the jury, taking those decisions for their guide, to say what was the truth of the issue joined between the parties. But his honor Mr. Justice Thompson then proceeded in a charge to the jury, which occupied nearly three hours in the delivery, to discuss at large the law and the facts of the case. How far such a course, under the circum-

stances that have been mentioned, was warranted by the practice of the federal courts, need not now be considered. For the present purpose it is sufficient to say, that the counsel for the defendant believed that the Judge in his charge had not only misdirected the jury, upon the law of the case, but that he had in effect, if not in words, departed from the instructions that had been previously given in answer to the written propositions of the parties. Indeed the counsel (without attributing any improper motives to the Judge) believed that he had given to the points ruled in favor of the plaintiff, a prominence and importance much beyond their just bearing upon the leading question of fact which the jury were to determine; while the points that had been decided in favor of the defendant had either been virtually overruled in the charge, or their just bearing and influence had been substantially withdrawn from the consideration of the jury. The great question which the counsel for the defendant proposed to try, was, whether the marriage settlement deed under which the plaintiff claimed title, had been delivered at or soon after the time it bears date, (January 13, 1758;) or whether it was for the first time set up after the revolution, for the purpose of overreaching the attainder of Roger Morris and his wife. This question did not depend upon any direct or positive evidence of the particular fact in issue, but upon such circumstantial or presumptive evidence as the parties had been able to adduce, having a bearing more or less direct upon that question. And it was on this account the more important that the rules of law which were to guide the jury in the discharge of their duties, should be clearly and distinctly stated, in such form that either party might understand them, and have the benefit of his exception if he thought proper to take any. And it was one of those questions where, if the Judge had himself arrived at a decided opinion upon what ought to be the verdict of the jury, he could not well go into an elaborate discussion of the law and the facts of the case, without the hazard of laying down some questionable principles of law, and seeming to encroach on the province of the jury. Whatever may have been the facts in this case, the counsel for the defendant believed that the Judge had misdirected the jury in point of law, and in such a manner that the questions intended to be raised upon the charge were not embraced in any of the specific points that had previously been decided. And in this belief, the counsel, before the jury left the bar to consider of their verdict, openly and distinctly excepted to the charge; and not only excepted to the charge as a whole, but proceeded to point out, as far

as practicable, particular parts and expressions in the charge which were deemed objectionable. But there was much in the charge that could not be reached by any effort to point out particular expressions, or if a separation was attempted between what had been said upon the law, and what upon the facts of the case: for the Judge, in his charge to the jury, had so interwoven his commentaries upon evidence, with those upon the effect of evidence, that it was, in the opinion of the defendant's counsel, impracticable to separate the one from the other, so as to give to the defendant a full and fair opportunity of reviewing the opinion of the Judge. This was a state of things which they had not brought about, but which they had done every thing in their power to prevent, by presenting distinct propositions involving all the law of the case, for the decision of the Judge.

Entertaining these views, the counsel for the defendant in preparing the bill of exceptions, not only inserted the specific points that had been submitted to and decided by the court, but they set forth the substance of the whole charge, with such a statement of their exceptions to it, as was adapted to the review that was desired. And this was done with the full understanding that the case, if not agreed upon between the parties, would be settled by the judge: and that he would, (according to established practice,) correct any errors that might exist in the statement of the charge or any other part of the case; that he would strike out what the party was not entitled to have inserted, and in short would exercise his own judgment upon what was a correct statement of the facts that transpired on the trial. But they never anticipated that the entire charge, including commentaries upon the law as well as the facts, and which had been expressly excepted to on the trial, could be struck out upon any possible ground, short of the consent of the party who complained of it. That the charge was truly set forth in the bill of exceptions, has not been questioned by the judge: he says on that subject, that "it is unnecessary to enter into the inquiry."

It still remains to give some more particular attention to the reasons assigned by his honor the Judge for striking out the charge.— And in the first place, if the charge had in fact consisted of nothing beyond "a mere commentary upon evidence," it would have been sufficient to assign that reason without proceeding further; for it is conceded that the forms of law do not furnish any remedy to the party in such cases, by way of review, however much he may

think himself aggrieved. This rule is based upon the theory, which does not always obtain in practice, that the Judge decides the law and the jury find the facts. But the intimation of this ground for striking out may have been an inadvertence on the part of the Judge, and it is believed that he will not affirm that the charge did not contain matter of law as well as commentaries upon evidence. Was it then stricken out because it contained commentaries upon the evidence as well as opinions upon the law of the case? If it be conceded that this was a sufficient ground for striking out a part, can it be maintained that it was proper ground for striking out the whole. The Judge himself has said of the charge—"It was considered improper to be inserted in the bills, so far only as it purported to be a mere commentary of the court upon the evidence." Upon the rule he has furnished, the "commentary upon evidence" should have been stricken out; and what went beyond that (which must mean commentaries upon the law,) was not "improper to be inserted in the bills;" and it ought to have been retained. Reasons have already been assigned why, in this case, the counsel thought they were entitled to put on record the substance of the whole charge: but if those reasons were not well founded, the party could not, by asking more than he was entitled to receive, forfeit what was his unquestionable right. Had more been set forth as the testimony of a witness than he had sworn to on the trial, it would hardly be contended that it furnished a proper ground for striking out what he did say along with that which had been improperly inserted as a part of his testimony. And if in the case under consideration more had been inserted in the bill than the party was entitled to retain, it was the duty of the Judge to strike out that part, and that only; and in other parts of this very case, the Judge acted upon this rule—neither following the bill or the proposed amendments, but modifying both, so as to make the case conform to his own judgment of what was proper. And he was expressly requested to pursue the same course in relation to the charge, when desired to review his determination upon striking out the whole.

His honor the Judge, after mentioning the decisions made upon the written questions of law that had been presented, proceeds to say—"It is believed that these specific points embraced every question of law that could arise upon the charge." That the belief of the Judge did not correspond with the belief of the counsel upon this question has been already shown; and it is submitted that the belief of the Judge upon the legal effect of his charge, any more

than his belief upon the question whether it was or was not erroneous, has nothing to do with the question of settling the bill of exceptions. Where a judge charges the jury upon the law of a case, the party has a right to except to that charge and place it on record; and it is no ground for striking it out, that the Judge who gave it believes it contains no error: that is a question to be debated and settled before the tribunal having power to review his decision. In this case the Judge did charge the jury upon the law, and his charge on that subject, to say the least, was five times as long as his answers to the specific points: that his answers and the charge were couched in the same language is not pretended. The counsel for the defendant believed that the charge did in effect depart from the ruling upon the points; and it was no answer to say that the Judge thought otherwise: that was a question to be settled by another forum. Can it be maintained that when the Judge has decided certain points of law, he can afterwards discuss the matter at large to the jury without a right in the party to except: or if he do except, can the judge allow or reject that exception, as he shall believe was the legal effect of the one mode or the other of instructing the jury? It is true that the decision of the Judge upon the points presented, although comparatively brief and in different language from that used in the charge, may still have been the same thing in substance and legal effect, as the charge itself; but whether so or not, the defendant was desirous of having considered in another place.

The Judge further says—"When the bills of exceptions were presented for settlement, the counsel was told, that if the specific questions stated did not embrace every question of law that could arise, or if any particular part of the charge deemed exceptionable would be pointed out, it should be incorporated in the bills of exceptions; and no exceptionable parts being designated, the charge was stricken out." Whether the specific questions stated and answered embraced every question of law that could arise upon the charge, has already been considered. And it may be enough in this place to say, that the defendants' counsel have at all times said that they deemed the charge more objectionable in point of law, than they did the decisions upon the points submitted. That opinion was manifested to the Judge on the trial, and again in the fact that the bill presented for settlement contained both the decisions upon the points and the charge; and there could have been no reason for a desire to retain both, had they been identical either in language or their legal effect. And on the other side it may be added, that if the two

things had either of the identities mentioned, there could have been no very cogent reasons for striking out either. Without saying more on this subject, it will be proper to consider the ground that the counsel, although requested, omitted to point out any part of the charge deemed exceptionable. It may here be proper to mention that the Attorney-General was not at any time before the Judge in relation to the settlement of the cases. A copy of the bill as prepared, was served on the opposite party, and after amendments had been proposed, the bill and the amendments were left with Mr. Hoffman, to be submitted to the Judge for settlement. The Attorney-General cannot therefore speak of his personal knowledge on the subject, but he believes the Judge has fallen into a mistake in saying it was at the time when the bills were presented for settlement, or at any other time before the charge was actually stricken out, that the counsel was told or requested to point out exceptional parts. When the bills were received by the Attorney-General, with the charge entirely stricken out, they were accompanied by a letter from Mr. Hoffman, of which the following extract contains all that has a bearing upon this subject.—“The charge you will perceive has been stricken out, the Judge observing that the Supreme Court at Washington had expressed themselves in their opinion in the first case as opposed to setting forth the charge *in extenso*.” This did not contain the slightest indication that the charge had been stricken out because the counsel had omitted to point out exceptionable parts; but the decision of the Judge was placed upon the sole ground that the charge had been set forth too much at large.

But it is believed that this ground for striking out may be safely met, without supposing the possibility of a mistake on the part of the Judge. And to do so it will be proper to consider what the objection is not, as well as what it is. The objection then to inserting the whole or any part of the charge, is not, that the party omitted to be sufficiently pointed and explicit in his exceptions on the trial; nor that the exceptions were untruly or improperly set forth in the bill of exceptions, which the Judge was requested to settle and seal: But the ground is, that the party must again point out on the settlement of the bill, or if he fail for any cause to do so, the Judge may strike out the whole matter. The Attorney-General with all due respect, submits that there is no such rule, either of law or practice. All that is required of the party is to make his exception sufficiently explicit at the time; and then to set it forth truly in his bill

of exceptions: And when this has been done, and that it was done in this case, has not been denied, it is the duty of the Judge to affix his seal to the bill. But possibly the Judge intended to say, that although the charge as delivered, was truly set forth, yet a part of it ought not to go upon record, and therefore the party must point out or specify some particular part to be retained. In answer to this argument, it is submitted, that if all was true, it belonged rather to the Judge than the party, to designate the part which for any reason ought not to be retained in the bill of exceptions. Again, this mode of stating the ground for striking out the charge, concedes that the party was entitled to retain some portion of it; and then if it should be granted that it was the duty of the party to specify particular parts, would his omission for any cause to do so, authorise the Judge to strike out the whole—including of course that which the Judge himself admitted was properly inserted? This would be pushing the somewhat odious doctrine of forfeiture to a serious length. But why did his honor the Judge confine his rejection to the charge only, and not extend it to the whole bill of exceptions? If the forfeiture was worth any thing, it went to the whole right of the party to have a bill of exceptions settled and sealed. But the difference between the Judge and the counsel lay deeper than all this, and went to the very foundation of the party's right to review the opinion delivered as a guide to the jury. It was no point of courtesy, but one of principle, that was to be settled. The complaint was, that the Judge, in his discussion of the cause before the jury, had not separated his remarks upon the law, from those upon the facts; but had intermingled the two in such a manner that it was impossible to separate between what was said upon evidence, and what upon the weight and legal effect of evidence. And the substantial question to be settled, was, whether the party should have the bill of exceptions in such form as would give him an opportunity to review the Judge's opinion. This remark may not be true of every part and parcel of the charge, but such was believed to be its leading and predominant character. When, therefore the Judge called upon the counsel to point out particular parts, (at whatever period that happened) it amounted to a decision that they must abandon their ground. And that too, not because the exceptions taken on the trial had not been as pointed and explicit as the circumstances of the case would admit, but because the nature of the charge was such, that a separation could not be made, or particular parts containing nothing but matter of law, be pointed out, and yet save to the party the benefit of his

writ of error. If the Judge, after deciding all the questions of law in the case, in answer to the points presented, had left the rest of the cause to the jury, no such difficulty could have arisen. Indeed had that course been pursued, it is possible that the other party would have had the trouble of making and settling the bill of exceptions. The privilege of reviewing a general charge upon the law and the facts of a case, is but a poor one at the best, as will be manifested by an inspection of the opinion of Mr. Justice Story, in the case of Carver, already cited. The part to which attention is particularly desired, will be found in 4 Peters, from page 98 to 99, inclusive. Also, in Legislative Documents of 1830, No. 347, page 14 to 19, inclusive. But poor as was this privilege, his honor the Judge in his communication, has told us that it was allowed in the case of Carver, as a matter of "more than ordinary indulgence;" and in the case of Crane, the like indulgence is denied to us altogether.

But let it be granted that the defendant's counsel were mistaken in supposing they were entitled to have the substance of the whole charge on record: it was neither a contempt of court, or any disrespect to the Judge to fall into such an error of judgment: and could not therefore have required a very heavy penalty. It was conceded, as has been shewn, that the charge did contain matter of law which the party had a right to review, and it was a heavy penalty to deny him that privilege, because he thought himself entitled to a still greater one.

The only remaining ground is, that the charge was stricken out "in order to conform in point of practice to the opinion of the supreme court of the United States in the case of Carver, vs. Jackson, ex dem. Astor and others; 4 Peters' Rep. 80." The first remark of Mr. Justice Story, in the case cited, goes to the practice of bringing the charge "at length," before the appellate court for review: What was intended by that remark is shewn by the sentence which follows it—"with the charge of the court to the jury upon mere matters of fact, and with its commentaries upon the weight of evidence, this court has nothing to do." It is impossible that this should be made to mean more than this; the charge "at length," including remarks upon mere matters of fact, and the weight of evidence, ought not to be brought before this court; and for the reason that with such remarks "this court has nothing to do." But is there any intimation that what the Judge said about the law of the case, whether longer or shorter, may not be excepted to, and brought before the appel-

late court? And if the party asks to have such remarks as have been alluded to, as well as opinions upon the law included in the statement of the charge, can any thing be found in this opinion authorizing the Judge to strike out all his remarks as well upon the law as the facts? If the defendant's counsel were mistaken in supposing that a full and fair review could not be had under the peculiar circumstances of this case, without setting forth the substance of the whole charge, did that work a forfeiture of their unquestionable right to have the charge upon the law inserted? Was any such "practice" hinted at in the case of Carver? or do not the Judges in the federal courts, as is constantly done by the Judges of the Courts in the State of New-York, and especially when requested so to do, correct the charge and every other part of the case, according to their own judgment of what took place on the trial, and the right of the party? But Mr. Justice Story further says—"If indeed, in the summing up, the Court should mistake the law, that would justly furnish a ground for exception. But the exception should be strictly confined to that misstatement; and by being made known at the moment, would often enable the Court to correct an erroneous expression, or to explain or qualify it in such manner as to make it wholly unexceptionable, or perfectly distinct." In this case the ground upon which the charge was struck out, was not that the party had not been sufficiently pointed and explicit in his exception at the time, or that any thing had been omitted on the trial by way of giving the Judge an opportunity "to correct an erroneous expression"; and it is not seen how this remark of Mr. Justice Story has any force by way of sustaining the "practice" of striking out the whole charge. That it is "inconvenient" to the appellate Court to review long charges or commentaries upon the law, cannot be doubted; but the fault (if it be such) is not in this case chargeable upon the party; for he did all in his power to obtain from the Judge brief and explicit opinions upon all the questions of law in the case. And it may be added, that in the case of Carver, the Supreme Court did examine "the general bearing" of the charge, which they would not have done if it had been brought before them in an irregular manner. And if the Court intend to say (which is not admitted) that they would not do so in future, the privilege of a writ of error, in cases where there has been a general charge upon the law and the facts, is not worth preserving.

Before closing this report, the Attorney-General deems it proper, by way of shewing what agency he has had in the settlement of the cases, and that he has done no more than respectfully to insist on what he deemed the right of his client, to submit extracts from two letters written by him to Mr. Hr. Hoffman, and laid before his honor the Judge. On receiving the letter before mentioned, which stated that the charge had been stricken out for the reason that it was set forth *in extenso*, a letter was immediately written to Mr. Hoffman, of which the following is an extract:—"But perhaps the objection is, and such it would seem to be, that the charge is set out too much at large. To this I respectfully answer in the first place, that asking to have more of it stated than we are entitled to, does not seem to be a sufficient reason for striking out the whole. And in the second place, I mean to contend at the proper time, that the party is entitled in all cases to put on record so much of the Judge's charge (whether longer or shorter) as he deems objectionable, for the purpose of asking the judgment of the appellate court upon its legality. This question is no less interesting in principle, than it is important to my clients; and I must respectfully ask the Circuit Court to review its determination upon striking out the charge. If it be truly set out on the bills as presented, I wish it allowed in that form; if not correctly stated, I expect the Court will (as has been done with other parts of the cases) make it such as in their judgment it ought to be."

On being informed that the Judge, after reading the above letter, had consented again to look into the cases, they were immediately forwarded for that purpose, with a letter to Mr. Hoffman, of which the following is an extract—"A few words will explain why I wish the whole charge in substance set out. The whole scope and bearing of the charge, rather than any particular expression in it, tended, in my judgment, to lead the jury to a different result from what they would have been likely to attain from the law as laid down in answer to our points. And the complaint that I designed at the proper time to make to the charge, is, that although it may not in terms have departed from the instructions given in answer to our points, yet that it did so in effect. It is therefore extremely difficult, if not impracticable, to throw the charge into the form of brief legal propositions. And besides, I doubt whether I have the right, after having drawn the case, and served it upon the opposite party, to substitute a new charge, or one in a different form. I can do no more than present the bills to the Judge for revision in such manner and form as he

shall determine to be proper : respectfully saying that I deem it matter of right to have the substance of the whole charge upon record." This was laid before the Judge at the time the cases were presented for reconsideration. The Judge at this time (whatever may have been done before) called upon Mr. Hoffman to point out in the charge any thing that looked like ruling a point of law different from the decisions upon the points submitted. Whether this call, under the circumstances that have been mentioned, and with the letter of the Attorney-General before him, was a proper one, is submitted to the judgment of others. It may be proper to add, that according to the recollection of the Attorney-General, Mr. Hoffman did not hear any considerable part of the several charges : and that he had no agency in preparing the bills for settlement. And it was not contemplated by the Attorney-General that counsel would attend the settlement of the cases ; and they were not originally left with Mr. Hoffman for the purpose of having him attend the Judge as counsel, but for submission.

It may be that no injury has been done to the party in this case ; or if it be a wrong, that it is one for the redress of which the law has provided no adequate remedy ; and what will be the result of the pending motion to correct the cases, the Attorney-General will not attempt to predict : but the prospect of a favorable decision is at least diminished by the knowledge that one member of the Court has already made up and declared an adverse opinion on the question. The Attorney-General may have erred in judgment concerning the legal rights of his client : but this is a very different matter from saying that he had "thought proper to withhold" any part of the case for the purpose of doing injustice to the Court. He has never designed to do more than to discharge the arduous duties that have devolved upon him under the acts of the Legislature concerning the claim of Mr. Astor, in such a manner as to fulfil his obligations to the public, without either overlooking the just rights of others, or forgetting that respect and deference which he owed to the Court. If in contesting every inch of ground, he has at any time seemed to be over-zealous, that zeal has been prompted by no other considerations than the deliberate convictions of his judgment that the claim made upon the state was without any just or legal foundation. And in this opinion he has not stood alone ; it was also the opinion of all the distinguished counsel with whom he has had the honor of being associated on the trials. This opinion was not overturned by the judgment of the Supreme Court in the case of

Carver, for the reason that it was not based so much upon the questions of law which were presented and decided, (though by a divided Court) in that case, as it was upon the ground that the deed of 1758, under which the plaintiff claims title, was never perfected by a delivery, and consequently did not affect the title of Mrs. Morris to the lands in question. This was a question of fact, which neither did or could come before the Supreme Court; and their decision left the question, where all such questions belong, to the verdict of a jury. It is true that the court in that case did decide that the plaintiff had produced sufficient *prima facie* or presumptive evidence of the delivery of the deed; and that "in the absence of all controlling evidence [on the other side] the jury would have been bound to find that it was duly executed." But this was no more than deciding what the counsel for Carver had admitted on the argument: and whether the defendant had given such presumptive evidence, or proved such facts and circumstances, as effectually to rebut the plaintiff's proof, remained to be considered. And concerning this evidence the Court say, "With the value of these acts and circumstances as matters of presumption for the consideration of the jury by way of rebutter of the *prima facie* evidence, this Court has nothing to do, and does not intend to express any opinion thereon." Under this decision the counsel for the state did not engage in the subsequent trials as a mere matter of form; but in the belief that the great question of fact on which the issue mainly depended was against the claimant.

It may not be improper to notice in this report some other things, which, although they have nothing to do with the communication of his honor the Judge, are still connected with this litigation. The counsel for Mr. Astor, as was fit and proper, have communicated with their client in private; but from the very nature of the case, the Attorney-General has been obliged to make his communications public. What has passed between Mr. Astor and his counsel, the Attorney-General has never inquired; and he should have deemed it improper for him to do so. But he regrets to state, that he has found with his Excellency the Governor, and with the committee on the judiciary of the Senate, communications from Mr. Astor and his counsel, (one signed by two, and the other by three of his counsel,) professing to give "some explanations on the part of Mr. Astor," which they say the report of the Attorney-General on this subject "seems to require." If they had undertaken this office as citizens of this State, their right to call in question the official acts of any

public officer would not have been disputed : but that a litigant party against the State, and his counsel, should think it either necessary or proper to interfere between the State and the officer charged with the defence of its rights, is, to say the least, no ordinary occurrence. The high character and standing of the counsel alluded to, precludes the possibility of believing that they have acted from any sinister or unworthy motive ; and nothing more will be imputed, than that they have yielded without sufficient reflection to the importunities of their client. What may be the object of Mr. Astor in this, and any other movements he may have made, does not appear. If his concern is about a proper decision of the pending motion, or the ultimate judgment to be rendered upon his claim ; those are matters to be disposed of at Washington, and by a tribunal that will neither be misled or influenced by what takes place at Albany between the Legislature and their officer. If his object be a compromise of the claim, and the termination of the litigation, that is a question for the Legislature. The Attorney-General has kept the Legislature at all times advised of the state and progress of the litigation ; and beyond this he has had no duty to discharge, but to go forward with the suits according to the mandate of the laws, until they should be made to speak a different language.

In what has been already said, an answer to the resolution of the Senate of the 24th of January, in relation to the Astor suits, has been to some extent anticipated. And the Attorney-General is of opinion that the interest of the state requires that any further information on the subject of that resolution should be communicated through the medium of the committee on the judiciary, to whom the matter was referred at the opening of the session ; or through some other committee, to be appointed for that purpose. It must be evident, that a communication by a report, which is public in its character, pointing out the opinions that are entertained, and the questions that are intended to be made on the part of the state, will be giving to the opposite party an advantage that will not be reciprocated. The Attorney-General therefore respectfully requests that he may be discharged from the further consideration of that resolution, and that it may be referred to some proper committee.

Respectfully submitted,

GREENE C. BRONSON,

February 4, 1831.

Attorney-General.

No. 29.

IN SENATE,

February 2, 1831.

PETITION AND MEMORIAL

**Of Edmond Charles Genet, relative to the claims of
John Jacob Astor.**

*To the Honorable the Legislature of the State of New-York, in
Senate and Assembly convened.*

The petition of Edmond Charles Genet, of the town of Greenbush,
Rensselaer county,

RESPECTFULLY SHEWETH:

That your petitioner having devoted the early part of his life to the study of the law of Nations, the feudal law, and the public law of the several governments of Europe, and among others, of the common law of Great Britain, declared by the Supreme Court of the United States, to be the National law of the United States, he has observed, with deep regret, that the mode of litigation, prescribed by two acts of the legislature of this state, passed April 16, 1827, and April 19, 1828, to extinguish the claim of John Jacob Astor, to certain lands in the counties of Dutchess and Putnam, have been the sole cause of the defeat, which this state has experienced, and will continue to experience, in the defence of that property, at an expense of not less than half a million of dollars, besides interest and cost. Your petitioner, under that impression, has deemed it his duty, as a citizen of this state, to investigate, with the greatest attention and zeal, the matter of the said claim, and has, he believes, conclusively proved in the annexed memorial, that the said claim of Mr. Astor is grounded on fraudulent conveyances, improper transactions, and erroneous pleas; that the title of the state to the superior, as well as to the inferior fee, of the said lands, is *duly and indefeasibly* vested in the people of this state, and that if the course of

degrading litigation, pursued in obedience to the acts aforesaid, was put an end to, by their total repeal, and replaced by the more dignified proceedings pointed out by the rules and principles of the common law, when the title of lands, once vested in a sovereign power, is in question, there seems to be no doubt but that the duty and rules of the federal courts of law, would ensure to the state a full and entire justice.

Your petitioner therefore prays, that the acts aforesaid be repealed, *in toto*, as unconstitutional, derogatory, and injurious to the reserved rights of the sovereign and independent members of this great confederacy; that Mr. Astor be reinstated in the position in which he was, before the acts were passed, and that the Attorney-General be instructed, not as the humble counsel of the tenants of the lands in controversy, but as the legal organ of this state, to appeal openly and avowedly to the Judges of the United States Supreme Court *upon the errors appearing on the face of the record and judgments of the several cases tried in the circuit court of the United States, in New-York, and the discovery of new matter and evidence, which confirm the title of the state to the lands claimed by John Jacob Astor, and disqualify the plaintiff from maintaining his actions against the enfeoffed frank-tenants of this state, within the jurisdiction of the United States.*

And as in duty bound your petitioner shall ever pray.

EDMOND CHARLES GENET.

MEMORIAL,

On the claim of John Jacob Astor and others, to certain lands, in the counties of Dutchess and Putnam.

BY EDMOND CHARLES GENET.



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MEMORIAL.

SECTION I.

On the title of the state of New-York to the absolute fee, and to the fee simple, of the lands claimed by John Jacob Astor, in the counties of Dutchess and Putnam.

The title of the People of the state of New-York, to the absolute, and to the inferior fee, of the lands aforesaid, is derived from *Political, Diplomatic, National, and State Law*.—The *Political Title* is founded on the innate sovereignty of the People of the United States, which had remained dormant, under the colonial government of Great Britain, and by the exercise of which, after having conquered and overthrown that government, the said People became invested of all the property, rights, and titles of the crown of Great Britain, over the respective territories of their assumed dominion. The public acts manifesting the assumption of those rights, are :

1. The declaration of the delegates of the United States in congress, of the 4th of July, 1776, dissolving the bands which had connected them with the kingdom of Great Britain, and recommending the institution of new governments, in the respective colonies of North America.

2. The act of the representatives of this state, in convention convened, the 20th April, 1777, approving the said Declaration of Independence, and declaring, in the name, and by the authority of the people of this state, that all the powers of the crown of Great Britain had reverted to the said people, and that no authority should, on any pretence whatever, be exercised over the said people, but such as should be derived from or granted by them.

3. The law passed by the Legislature of this state, February 6, 1778, accepting the articles of confederation, and perpetual union, between the states, and retaining its *individual sovereignty*, freedom and independence, and every power, *jurisdiction*, and right, which were not, by the said articles of confederation, *expressly delegated* to the United States in congress assembled,

4. The federal constitution of 1787, combining the respective advantages of a consolidated and a confederated government, without infringing the reserved sovereign rights of the states within their local dominion.

The diplomatic title, is founded on the definitive treaty of peace between the United States and his Britannic Majesty, signed at Paris,

December 3, 1783, which treaty surrenders, transfers and assigns, forever to the several United States, all claims to the government, propriety, and territorial rights of the crown of Great Britain within their respective dominions, and implies an acknowledgment, on the part of Great Britain, that the states which, in pursuance of their assumed sovereignty and independence, had confiscated the property situated within their territories, belonging to such of the British subjects who had borne arms against the said states, or who remained voluntarily in places occupied by the British forces during the war, had exercised a right sanctioned by the law of nations; an implied *acknowledgment and settlement*, which is evinced by the compromise which took place between the plenipotentiaries of the two contracting governments, on the subject of the restitution of the said confiscated property; the English plenipotentiaries having insisted, at first, as a condition, *sine qua non*, that the said property should be restored without exception, and the American Ministers having declared that the states would never consent to such a demand unless the English government consented also to compensate the American citizens, for all the property taken from them by the British, or destroyed by them on the seas and on the land during the war; upon which firm and patriotic declaration, made by the immortal Franklin,* the English plenipotentiaries were instructed, by the cabinet of St. James, to give up the point, and only to claim, as an act of equity, that congress should recommend to the states to restore the said property to its former owners; a vain request, evidently calculated, as a soporific elixir, to quiet the clamors of the American refugees, to which the American Ministers, satisfied that it was unbinding for the states, consented to agree, in order to accelerate the conclusion of the treaty. It was accordingly stipulated, that congress should recommend the said restitution, it being well understood, that it depended entirely upon the will and pleasure of the sovereign states, and in the event of the success of the recommendation, which has never been acted on, the claims of the loyalists were divided, *ad expectandum*, into three very distinct classes. The *first class*, comprehending the loyalists, who had borne arms, or acted in hostility to the United States, together with those who had not borne arms against the said states, but had remained, during the war, in districts or places within the possession of the British forces. The *second class*, comprehending all other persons of any other description, whose property had been confiscated, which class would

*Vide American State papers.

be allowed to go to any part of the United States, and therein to remain twelve months, unmolested, in their endeavors to obtain the restitution of such of their estates, rights and properties, as might have been confiscated, on their refunding to any person who might have been in possession, the bona fide price, where any had been given, which such person might have paid, on purchasing any of the lands, rights or properties since the confiscation. The *third class*, comprehending exclusively the real British subjects who were not attainted nor liable to attainder, and who had interests in confiscated lands, either by debts, marriage settlement, or otherwise. It is in behalf of this latter class, *and of that class alone*, that it is positively agreed and promised by congress, independently of the assent of the states, that the said British subjects would meet with no lawful impediment in the prosecution of their just rights; a restrictive favor which is exclusively relative to the British subjects included and described in the latter class, and decides nothing in favor of the two first classes. It is obvious accordingly, by the above article of the treaty of peace, of 1783, that unless it can be proved, contrary to the facts and authorities that will be hereafter presented, that the heirs of Roger and Mary Morris, whom Mr. Astor represents, were included in the latter class, and not in the first; their claim is not protected by the treaty of peace, inasmuch as the states have never acted on any recommendation of congress, in relation to the confiscations, and that no public document shews that congress itself did enter into any negotiation with the states on that subject.

The treaty of amity, navigation and commerce, concluded in the year 1794, between the United States and Great Britain, does not extend any more protection to Mr. Astor's claim, than the treaty of peace, as it will be seen by the following analysis of the article* of that treaty, from which it is pretended that such a protection is derived. This is the article—"The British subjects who held lands in the territories of the United States, shall continue to hold them, according to the nature and tenure of their respective estates therein, with the power to sell, grant or devise the same."

If the words, which compose a language, are the representative sounds or signs of the ideas which they are intended to convey, a grammatical and glossographical definition of the words which compose the said article, will demonstrate that, very far from protecting Mr. Astor's claim, it excludes it entirely.

* Vide article 9th of the treaty of 1794.

Because, the idea attached to the participle passive, *held*, of the verb *hold*, is that of a thing grasped in the hand,—gripped, clutched. And that the said heirs having only a contingent or reversionary interest in a fee simple, or fee rent farm, subject to contingencies, dependent upon the punctuality and good behavior of the tenants in possession towards the superior lord ; and the tenants in possession having forfeited all their rights, and all the rights attached to their inferior fee, by their failure in the payment of the rent and their criminal conduct towards the state, when the people became invested, in 1776 and 1783, with the superior fee and dominion of the premises, (as it will be fully proved and explained hereafter,) it cannot be alleged that they held such an intangible and forlorn non-entity in 1794.

Because, if that definition and illustration of the verb *hold*, in the usual language, is not sufficient to show that the article 9, of the treaty of 1794 does not apply to the claim in question, the latter part of the said article removes all doubts and equivocations on that subject, in providing expressly, that the confirmation of the title of lands held by them in the United States “shall be according to the nature and tenure of the irrelative estates therein.” The technical word *tenure* being specifically descriptive, in the common law language, of the actual possession of lands under any kind of tenure, which have not reverted and determined back to the superior lord of the manor or *seigneurie*, by forfeiture, escheat or any other expropriatory operation of the law, or which are left vacant, as a *feudum apertum*, which no heir has a right to hold, particularly if it is a fee simple subject to villain services or rent, if the lord of the manor or the sovereign have not reinvested it, after the claimants for relief have duly fulfilled the usual requisites and forms to obtain the restoration of the tenement held by their ancestor. *Because no tenure in any kind of fee can commence in futuro and be created at common law, without livery of seisin or corporeal possession of the land.**

And finally : because, if diplomatic tests are also applied to the interpretation of the said article, it will appear evident that, had the federal and the British governments, in view to effectuate, eleven years after the peace, a restitution of the confiscated property of the loyalists, it would certainly have been expressly and unavoidably mentioned in the treaty of 1794, in order to alter (if a treaty of

* Vide Blackstone, Book II. ch. 9.

commerce could do it?) what had been settled by the treaty of peace on that subject; and preliminary negotiations would have been set on foot, not only on the part of the British government, with the federal government, to obtain that restitution or an equivalent in money, but also on the part of the federal government with the states, to make them consent to such a monstrous encroachment on their reserved rights and on their purse.

It would effectually amount to a libel against the memory of Mr. John Jay, who negotiated and signed the treaty of 1794, to pretend that the same statesman who during the negotiations of the treaty of peace had, jointly with Benjamin Franklin and John Adams, refused to assent to the restitution of the confiscated estates of the attainted loyalists, should by the said article of the treaty of commerce, have perfidiously and covertly understood and agreed to protect proscribed persons and revive their extinct titles to the said property, by the invasion of a right of direct dominion which is as much reserved to the states by the federal constitution of 1787 as by the articles of confederation of 1777.

Under those considerations it seems that the inherent and vested right of the people of this state to the absolute, as well as to the inferior fee simple of the lands claimed by Mr. Astor, instead of being shaken and demolished by the treaty of peace with Great Britain, and the treaty of commerce with the same power, is strongly fortified by those public covenants.

It now remains to be shown that the common law of Great Britain, the law of the state of New-York, the rules of its tribunals, and the declarations and decisions of the Supreme Court of the United States, equally concur to defend that right.

The legal title is founded on the national law of the United States, which has been declared by the Supreme Court of the United States* to "be the common law of Great Britain, such as it existed before the declaration of independence of the United States," and which has been also proclaimed by this state in the constitution of 1777, to be the law of the state of New-York. Under that law, and in conformity to its principles, and to the principles of the law of nations, this state did pass, the 22d of October, 1779, *An act for the forfeiture and sale of the estate of persons who had adhered to*

* In the case of the United States vs. Williams and others, (vide Peter Duport on Jurisdiction.)

the enemies of this state, and for declaring the sovereignty of the people of this state, in respect to all property within the same.

"By that law, as well as by the constitution of 1777, the state assumes all the royalties, prerogatives, rights of escheat and forfeiture, duties, services and dues, by whatever name respectively the same are called and known in law, and all right and title to the same, which next and immediately before the 9th of July, 1776, did vest in or belong to, or were due to the crown of Great Britain; and the same and every of them are declared to be vested in the people of this state, in whom the sovereignty and seignory thereof were united and vested on the 9th day of July, 1776. By reason whereof all persons holding or claiming property within this state, who had in overt treason to their native country, adhered to the king of Great Britain during the cruel war which the said king had waged against this state, and the other United States, to bring the same in subjection to the crown of Great Britain, have severally forfeited all right to the protection of this state, and to the benefit of the laws under which such property is held or claimed, and that the public justice and safety of this state absolutely require that the said notorious offenders should be hereby immediately convicted and attainted, of the offences aforesaid, in order to work a forfeiture of their respective estates, and vest the same in the people of this state."

Accordingly, among many notorious offenders, Roger Morris and Mary his wife, Beverly Robinson the younger and Susannah Robinson his wife, and each of them, are severally declared to be, *ipso facto*, convicted and attainted of the offences aforesaid; and it is ordered that all and singular the estate, both real and personal, *held or claimed* by them the said persons, severally and respectively, whether in possession, reversion or *remainder*, within this state, on the day of the passing this act, shall be and hereby is declared to be forfeited and vested in the people of this state.

The said law provides further for the conviction of all other persons not included in the list of the notorious offenders attainted and convicted, *ipso facto*, by virtue of the said law, and declares among other things, that, *"not to have taken the oath of allegiance to this state before the 4th of April, 1778, to have remained in places under the possession or power of Great Britain, shall be sufficient a cause for the confiscation of their estates."*

And by the 13th article it is further declared, "that all titles, estates and interest by executory devise or *contingent remainder* claimed by any person *hereby, or by virtue of this law to be convicted*, shall, on conviction, be as fully forfeited to all intents, construction or purposes in the law, whatsoever, to the people of this state, as any other claim, estate or interest whatsoever."

It is also by the 12th article of this act enacted, that all conveyances, since the 9th of July, 1776, by any or either of the persons who are immediately convicted and attainted, "shall be presumed to be fraudulent."

This law, with all its apparent severity, is in reality nothing more than a promulgation, under American colours, of the common law of Great Britain, in relation to treason, attainder, forfeiture and escheat; and as that law was the law of the colonies before the revolution, and has continued to be the national law and the law of the state since, the property of the native Americans, who had committed overt acts of treason against their country or resided during the war in places in the possession of the enemy, and continued to adhere since to its government, would have equally devolved to this state, by the operation of that law, as it has by virtue of the statute of 1779, a fact that will be corroborated by the following extract of the commentaries of the profound and judicious Blackstone, on the laws of England.

"When, says that great Jurisconsult,* the Salii Burgundians and Franks broke in upon the Gauls, the Visigoths on Spain, and the Lombards upon Italy, they introduced, with themselves, their northern plan of polity, serving, at once, to distribute and to protect the territories they had newly gained. The Normands who conquered England under William the conqueror, established the same military tenure, in that kingdom, and all the English nobility who submitted to it, at Sarum, became the king's vassals and did homage and fealty to his person. In consequence of this change, by which all the allodial or free estate of the ancient Britons or Anglo-Saxons, were converted into *feuds*, it became a fundamental maxim and necessary principle of the English *tenures*, that the king is the universal lord and original proprietor of all lands in the kingdom, and that no man doth, or can possess, any part of it, but what has mediately or imme-

*Blackstone, Book II. Chap. 4.

diately been derived, as a gift, from him to be held upon feudal service."^{*}

"The manner of the grant was by words of gratuitous and pure donation, *dedi et concessi*, which are still the operative words in the modern infeodations or deeds of feoffment."[†]

"All tenures were subject to feudal returns, to render rent or services of some sort or other, *and the tenants, to obtain the investiture or confirmation of their fee*, were bound to an oath of allegiance and fealty denominated *hommagium*, from the latin words "*devenio vester homo*," "*I become your man*," (words perfectly expressive of the object of the oath, and which are the parent of the oath of allegiance in England and in the United States.[‡])

"As the fees were gratuitous, so they were also precarious and at the will of the lord, who was the *sole judge* whether his vassal or the heir of his vassal, were entitled to be continued in the possession of the fee, and in cases of attainder for treason or felony, it was presumed that a man's blood was so universally corrupted, by attainder, that his heirs could neither inherit to him nor to any ancestor; founded upon this principle that the blood of the person last seized of the fee, is extinct or gone, since none can inherit his estate but such as are of his blood, and consequently that when such blood is extinct, the inheritance itself must, and the land becomes what the feudal writers denominate a *feudum apertum*; an open or unappropriated fee, and results back to the king."

The severity of that ancient English law was modified in the new felonies created by parliament since the reign of Henry the 8th, where it is declared that they shall not extend to corruption of blood. It was also modified by the 17th statute of George the second, by which it is enacted, "that after the death of the pretender and his sons, no attainder for treason should extend to the disinheriting any heir, nor to the prejudice of any person other than the offender himself." But it is no where to be found that those statutes, no more than the statute of Charles the II. which turned all sorts of tenure, held of the king or other mediate lord, into free and common socage, (by which the services were chiefly reduced to certain services, and differed from the knight service, where the render or service was precarious and uncertain,) have dispensed the heirs of persons

^{*}Blackstone, Book II, Chap. 2. [†]Ib. Chap. 4. [‡]Ib. Chap. 5.

attainted, whose fee had been forfeited to the crown, during their life, from fine and homage, to obtain the reinvestment of their fee ; and if this duty is neglected, *per diem et annum* the fee *de jure* without trial or conviction, reverts to the crown.

There are besides the cases of attainder and forfeiture against the traitors and their heirs, if the latter neglect their duties towards the king, other cases which cause the landed property to revert to the seigneure or superior lord of the land or to the king, among which are, 1st, default in rendering rent or service, if it is an inferior fee and not a frank-tenement ; 2d, *alienism*.

An alien is incapable of taking by descent or inheriting, not only because the law presumes that they have not in them inheritable blood, but because, on a principle of national policy, if lands were suffered to fall into the hands of those who owe no allegiance to the crown, the defence and support of the country, would be defeated, wherefore, if a man leaves no other relations but aliens, his lands escheat to the king.* Aliens for the same reason are also disabled to hold by purchase, and as they can neither hold by purchase, nor by inheritance or devise, it is, says Blackstone, almost superfluous if they have any heirs.†

Such was the law of Great Britain in 1776. Therefore, under that law, the fee simple, in the possession of Roger and Mary Phillips, would have reverted to this state, without the aid of the statute of attainder, on account of their treason to their native country ; and their children would have also lost their contingent remainder in the said fee, on account of their residence among the enemies of their native country, and also on account of their voluntary *alienism*; because as it has been maintained, by the Supreme Court of the United States, in pursuance of that law, in the case of *Ingals v. The Trustees of the Sailors' Snug Harbor*.‡ “ If their infancy incapacitated them from making an election for themselves, and their election and character followed that of their father, it was however subject to the right of disaffirmance, in a reasonable time, after the termination of their minority, which never having been done, they remained British subjects, and disabled from inheriting land in the state of New-York ;” which decision, *mutato nomine is totibus verbis*, applicable to the heirs of Morris, inasmuch as it has been proved on

*Vide Littleton's Commentaries, L. 2.

†Blackstone, Ch. 15, Book II.

‡ Vide Peters' Reports, volume 8.

the first trial in the Circuit Court, by Mr. Astor's own witnesses, that the said heirs were born in the city of New-York, before the 4th of July, 1776, remained with their father (a warm royalist) in that city, which continued in the possession of the British forces during the whole war, retired with him to the British dominions after the peace, and have, since the termination of their minority, evinced no inclination to change their allegiance; his Britannic majesty having most liberally compensated the loss of their American property, with high offices, pensions and grants of land; a remarkable circumstance, which indicates that they were considered, by the court of St. James, as being included in the first class of the loyalists described in the treaty of peace, for which the act of attainder of this state was an insurmountable bourn.

That statute has effectually been considered, by the Supreme Court of this state, as a conclusive title for all the lands confiscated, directly or impliedly, under it, and that court has exercised jurisdiction in all cases arising from its application, as it will be seen in the case of *Jackson v. Sands and others*,* where the said court has declared "That cases of attainder and forfeiture are to be construed under the act of attainder of the state, and not by the ordinary course of judiciary proceedings, and that a person attainted,† under the act aforesaid, is to be considered as *civiliter mortuus*. It has also been decided by the same tribunal,‡ that since the revolution, the aliens are disabled from taking by descent, by purchase, courtesy, or dower, or by any other title created by act of law, excepting from this rule, since the conclusion of the treaty of 1794, with Great Britain, the British subjects who held, or had continued to hold, lands in this state." An exception, which, as it has been previously observed, does not apply to the heirs of Morris, who neither did hold, nor had continued to hold, the precarious and conditional fee simple of their father, and grand-father, forfeited to the people of this state, as sovereigns and seigneurs of their land, and who were totally unprotected by the treaty of 1794, and disabled as aliens to hold or to convey any estate of inheritance in this state.

The authority of the Supreme Court of the state of New-York, on a question of territorial title, upon which the state has sole jurisdiction, seems to render any other authority superfluous; but as it receives an additional force, in the present case, from various de-

* 2 Johnson's Cases, 267.

† *Jackson v. Catlin*, 2 Johnson Rep. 20.

‡ *Jackson v. Breako*, 7 Johnson's Cases, 399.

clarations and recognitions of the Supreme Court of the United States, it is proper to present them here, to complete as much as possible, the proofs of the paramount title of the state to the lands claimed by Mr. Astor. That high national tribunal has solemnly acknowledged* “that the courts of every state or government have the exclusive authority of constructing their local statutes,”) † “that with respect to title to real property the federal courts applied the same rules that were applied by the same tribunals in like cases.‡ That the treaty of 1794, only provides for titles existing at the time that the treaty was made.§ “That a deed of land out of the possession of the grantor at the time of its execution, does not convey the lands.”|| “That deeds absolutely void cannot be the foundation of title,¶ and that an alien can never take an estate by descent.”

It may accordingly be inferred from the facts and authorities collected in this section,

1st. That under the common law of Great-Britain, Roger and Mary Morris, and all the children they have begotten, have all equally incurred the forfeiture of all the lands which they held or were entitled to claim by reversion.

2d. That the acts of forfeiture of the state of New-York, agree with the rules and principles of the common law of Great-Britain.

3d. That the rule of the Supreme Court of the state of New-York, being to try cases of attainder, under the act of attainder of 1779, the Supreme Court of the United States was bound by its own decisions to try the said cause under that law, as well as under the rules of the common law.

4th. That the pretended title of the said heirs to the fee simple of the lands in question, having devolved to them after the death of Mrs. Mary Morris, which happened in 1825, had not vested in them in 1794, according to the well known law adage, “that no one is heir to the living,” (*Nemo est hæres viventis*), which circumstance has deprived them as aliens, of the protection of the treaty of 1794, and consequently of the power of taking or transferring the said estate; the treaty referring only to lands *held* and to *existing*

* Vide *Elmendorf v. Taylor*, Wheaton's Rep. Vol. 3.

† *Elght's Lessee, v. Rochester*, Wheat. Rep. Vol. 7.

‡ *Brooks v. Manbury*, Wheat. Rep. vol. 3.

† Vide *Waring, Peters' Rep.*

§ *Hutchinson v. Wright*, P. Rep. v. 3.

¶ *Brooks v. Manbury*, ib.

titles at the time of the treaty and not to titles subsequently acquired and in abeyance or expectation.

5th. That the fee simple which the said heirs claimed, had duly reverted to the people, by forfeiture as sovereigns of the land, and also by escheat, as superior lords of the said lands ; *in consequence of which the said lord had a right, ipso facto, to seize the premises without any presentment or trial by a jury ; tenants in villeinage not being entitled to that formality.*

6th. That the said heirs having a full knowledge of those facts, and having notwithstanding conveyed the lands in question to Mr. Astor, for a valuable consideration, as a good estate of inheritance duly vested in them, have committed a fraud which renders their deed nul and void. Therefore under all those points of view, the title of the state resting on the public and fundamental law of the United States, on the statutory law of this state, and being fortified besides by the rules and authorities of the jurisprudence of England and of the United States, seems to be indefeasible.

SECTION II.

On the irregularities of Mr. Astor's proceedings to recover the lands conveyed to him by the heirs of Roger and Mary Morris.

The Federal Courts of law, as it has been in several cases acknowledged by those courts,* and as it has been expressly regulated, by the constitution of the United States, are courts of a limited jurisdiction, which, agreeably to the said constitution extends " to all cases in law and equity arising under this constitution ; the laws of the United States, and treaties made, or which shall be made, under their authority ; to all cases affecting ambassadors, other public ministers and consuls ; to all cases of admiralty and maritime jurisdiction ; to controversies to which the United States shall be a party ; to controversies between two or more states ; between a state and citizens of another state ; between citizens of the same state, claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens or subjects."

This clause of the constitution of the United States contains the metes and bounds of their jurisdiction, and as it is under the said

* Vide Dallas' Rep. 332, Turner v. Smith, and Turner v. The Bank of America, &c.

clause, that Mr. Astor alleging to be a citizen of the state of New-Jersey, has instituted an original action of trespass and ejectment in the Circuit Court of the United States for the southern district of New-York, against certain tenants in fee of the said state, it is proper to ascertain by the rules established by the judiciary act and by the decisions of the Supreme Court of the United States, if that gentleman was entitled under that badge to bring such an action within the cognizance of that Court.

By the 13th section of the act establishing the judicial courts of the United States, approved September 24, 1789, it is explicitly ordained that the jurisdiction of the said court does not extend to controversies of a civil nature between a state and its citizens, and that in such controversies between a state and citizens of other states, or aliens, it has only original, but not exclusive jurisdiction.

By the decisions of the said court, it appears further,* “That it was necessary to set forth the citizenships of the respective parties, or their alienage, when a foreigner was concerned, *by positive averment*, in order to bring the case within the jurisdiction of the United States court; and that if there was not a sufficient allegation for that purpose on record, *no action could be sustained.*”

That a citizen could not dissolve the compact which bound him to the government to which he owes allegiance, without the consent of the community.† And that in point of allegiance the general doctrine held by the Supreme Court was, “That no person without the consent of their government may put off their allegiance.”

It will also be found in the Lectures of the American Blackstone, the learned Chancellor Kent, on the laws of the United States,‡ “That the allegiance of an American citizen, though pre-eminently due to the United States, is also due to the local government under which he resides, and that the judges of the Supreme Court of the United States, have decided that the cause of the removal of a citizen from one state to another, *must be lawful.*”

Therefore, as it is of public notoriety that Mr. John J. Astor, since he emigrated from Germany to the United States, has resided and been domiciliated in the city of New-York, where he has ac-

* Vide *Bingham vs. Cubot, Dallas' R. 382.* † Vide *United States vs. Williams, 1792.*
 ‡ Vide *Ingalls vs. the Trustees of the Sailors' Snug Harbor, Pet. R. vol. 8.* § Vide *J. Kent, section 16.*

quired an immense real and personal estate ; and as no public records attest that the government of this state has consented to his changing his allegiance, nor that the government of New-Jersey has legally adopted him as one of its citizens ; and as his temporary excursions to a country seat on the shores of New-Jersey, since the beginning of his suits against the tenants in fee of this state, was evidently calculated to give the color of law to his abjuring the jurisdiction of this state, in the hope of defeating in another jurisdiction its vested rights ; it seems to be unquestionable, that under the constitution, the laws, and the rules and authorities above stated, the said John Jacob Astor, either as a citizen or a denizen of this state, was not entitled to maintain an original action in the United States court, and that if an inquest of office had been claimed, or was hereafter to be claimed, to ascertain the New-Jersey citizenship of that old inhabitant and merchant of New-York, he should have been, or should be dismissed with reproof from tribunals whose duty and principles are to respect and protect the rights of the sovereignties from which they have derived their constituted powers, when these sacred rights are properly claimed before them. But what might yet be of a more serious consequence for Mr. Astor, he has, (by abjuring for unlawful and disloyal purposes, by fictitious averments, the jurisdiction of the state to which he owes allegiance) committed, under the common law of Great Britain, an offence denominated "*feudum ejuraverit*," which is included in the felonies "*per quas feudum amittitur*," (by which the fees are forfeited.) A penalty of the feudal law, which Blackstone tells us,* was in his days in vigor, particularly in copyhold estates, and simple fees, rendering rent and services, and which since that time has continued to be applied with all its ancient severity ; so that, if the said judgments recovered by Mr. Astor were not revised, reversed, and declared void by the Supreme Court of the United States ; and if this state did repeal the acts of 1827 and 1828, the lands recovered by that gentleman could be forfeited and determined *de novo* to the people of this state, on account of the above misprison and felony, a catastrophe that Mr. Astor had not, it is presumed, calculated when he created himself a citizen of New-Jersey, to avoid the jurisdiction of this state.

It further appears, from the principles of the common law of Great Britain, declared to be the national law of the United States, that Mr. Astor had no remedy by ejectment in any court of the

* Blackstone, *idem*. book 4, chap. 7.

United States, federal or local, against the lessees of this state, because this people being, as to territorial dominion, in the place of the kings of England, who cannot be disseised or dispossessed of any real property,* which is once vested in them. The only course to pursue, for persons claiming relief for the reinvestment of lands, from which they or their ancestors have been dispossessed, by attainder or escheat, is by a *petition of right*, or a *moustrous de droit*, in a common law process in the Court of Chancery of the state where the petitioner makes out his title; and if the right is determined against the king, the judgment is "*quod manus domini regis amoveantur*," (let the property be taken from our Lord the King's hand,) and "*possessio restitatur petenti, salvo jure domini*," (let possession be given to the petitioner, saving the right of our said Lord,) which clause is always added to judgments against the king, to whom no lache is ever imputed, and whose right is never defeated by any limitation or length of time, and by such judgment the crown is instantly out of possession, so that there needs not be any *indecent interposition* to transfer the seisin from the king to the party aggrieved.† No person, says *Puffendorf*, (Law of Nations, 8 vol. book 8, chap. 10,) has a right to compel his sovereign to give him his due when he refuses it. And *Finch*, sec. 255, further observes, *That if any person has in point of property a just demand upon the King, he must petition him in his court of equity, where the law presumes that he will administer justice as a matter of grace, though not upon compulsion.*

It is probably this course, pointed out by the common law, that the judges of the Supreme Court of the United States had in view, when, in the case of *Grace Kemp*, a subject of the King of Great Britain vs. *Kennedy*,‡ "they declared that the owners of estates wrongfully forfeited, have no remedy by ejectment to recover the property forfeited, but could only proceed by writ of error, according to statute." And it may also be in view of the same rule that the illustrious *Alexander Hamilton*, in the year 1787, being then a member of the House of Assembly of this state, and chairman of the judiciary committee, to whom was referred a petition of *Johanna Morris*, on behalf of herself and the other children of *Roger Morris* and *Mary* his wife, praying that a law should be passed to restore to them the remainder of the estate, reported, "that if the facts stated in the said petition were true, the ordinary course

* Vide *Blackstone*, book 8, chap. 17. † *Idem*. ‡ *Peters' Reports*, vol. 1.

of law was competent to the relief of the petitioners," which was unanimously concurred in by the said Legislature, and adhered to by several subsequent Legislatures, but unfortunately overlooked by the two Legislatures of 1827 and 1828.

SECTION III.

On the acts of the Legislature of the State of New-York, passed April, 1827, and April 19th, 1828 : the first entitled "An act to extinguish the claim of John Jacob Astor, and to quiet the possession of certain lands in the counties of Dutchess and Putnam;" and the second an act to amend the said act,

The two acts above mentioned manifest the benevolent and paternal intentions of the Legislatures by which they were passed, towards the purchasers of the confiscated lands, claimed by Mr. Astor in the counties of Putnam and Dutchess. The said acts are also an eminent proof of the anxiety of those legislative bodies to spare the public money and prevent a protracted litigation ; but it is to be regretted, that to accomplish such humane and prudent purposes, they should have consented, in the name of that sovereign and independent people, who had assumed in 1776 the royalties and prerogatives of the crown of England, that the American citizens who had been enfeoffed by the said people, with the superior and absolute fee of the lands, which traitors and their offspring had held under the British government only in simple and qualified fee, should be brought, as prisoners at the bar of a federal court, to answer John Jacob Astor, the representative of the ousted vassals of their frank-tenement, on a plea of trespass and ejectment!! It is also to be regretted that, by the said acts, the Attorney-General of the state, instead of covering those enfeoffed tenants of the state with the triple shield of the common law, the law of the Union, the statutory law of this state, and the rules and decisions of the national and state courts of law in cases of attainder and territorial jurisdiction, should have been compelled to admit, that it was lawful for the said John Jacob and those claiming under him, to insert and use in the declarations against the said lessees of the state, any devise or devises which the law and practice authorise and allow to other suitors or claimants in actions of ejectment ; and that admitting, without any legal investigation, that the plaintiff had effectually a claim that it was ne-

ecessary to extinguish, an eventual appropriation of about half a million of dollars of the public money should have been made, by the same acts, to meet the damages and costs to which the plaintiff might be entitled if the final decisions of the Supreme court were in his favor, and embraced a part or the whole of his claim!!

The love of peace and the dread of law could certainly not be evinced in a more liberal manner. It seems, however, that if the object of these acts was to settle with Mr. Astor, at any rate, and without litigation, it would have been much better to give him at once, as a gratuity or *bonus*, the *three hundred thousand dollars* which he was, very graciously, willing to grasp, for the redemption of his pretended title, than to surrender the jurisdiction of the state to the jurisdiction of the United States, admit a claim without any foundation, and embark in a course of proceeding which could not but terminate against the state, if the majesty and energy of the political law was not allowed to set aside the fraudulent regeneration of a title which it had long ago annihilated.

But the fact is, as the Journals of the Legislature will show, that after repeated trials on the part of Mr. Astor, to obtain from the preceding legislatures a vote for the payment of the said *three hundred thousand dollars*, a constitutional majority could never be secured. Whereupon, in order to obviate that impediment, the Legislature was prevailed upon to pass the present laws, by the means of which, under the garb of an appropriation for legal expenditures, and the eventual discharge of an assumed responsibility, of which the honor of the state required the fulfilment, *the great safe-guard* of the public purse and property, imperiously required by the constitution of 1825, in every bill appropriating the public money or property for local or private purposes, *was dispensed with*; and the fatal consequence of those acts has been a total defeat, which could have been averted if the Legislature had not interfered with the judiciary branch of the government, and if the state tribunals had been left at liberty to exercise their functions, as the constituted guardians of the legal rights of the people; or if, even at the bar of the federal courts, where Mr. Astor had carried his complaint, the Legislature had not forbidden the Attorney-General to interpose the sovereign and domanial rights and prerogatives of the people in the defence of the lessees of the state.

In reality, it cannot be denied that mere technical controversies on matters of form, could not destroy an interest vested legally in the usual course of civil law, if the political laws of this country, and that part of the feudal law preserved in the practice of the common law of Great-Britain, were not allowed to traverse all the pleas of the plaintiff. Treason, attainders, escheats, reversions, confiscations, are all, in a great measure, violations of private rights, justified by national and governmental polity, almost irreconcilable with the ordinary course of justice; and it is for that reason, as I think proper to repeat it again, that the supreme court of the State of New-York has declared, "That proceedings in cases of attainder and confiscated estates, are to be construed under the rules of the acts of attainder, and not by the ordinary course of judiciary proceedings;" a solid opinion, in which the supreme court of the United States has concurred. Had those correct rules been observed and enforced, the result of Mr. Astor's proceedings and pleadings would have been very different, as I will endeavor to show, as far as my very feeble abilities will permit, by the following sketch of a fictitious defence made on that high and commanding ground, (in lieu of the one prescribed by the true intent and meaning of the aforesaid acts of the Legislature,) by the able, zealous and talented counsellors entrusted with a defence, rendered defenceless and impracticable.*

SECTION IV.

On the proceedings of the federal courts of law.

Pleas of the Plaintiff.

James Jackson, a citizen of the State of Jersey, complains of James Carver, a citizen of the State of New-York, being in custody, and brings in his bill against the said James Carver, of a plea of trespass and ejectment of farm.

Preliminary Objections.

In the first place, it is denied that James Jackson, alias John Jacob Astor, is a citizen of the State of Jersey; an inquest of office is required to ascertain it, and if he fails, this court has no jurisdiction in the case.

* Vide the case published in Albany, by Croswell and Van Benthuysen.

In the second place, James Carver holds the absolute fee of his land from the superior lord of the land, and cannot be ejected by the inferior tenant, of a qualified fee simple.

In the third place, James Carver is on his feud the representative of the State of New-York, which cannot be disseised of property once vested in the people, by right of sovereignty and seignory.

In the fourth place, this being a case of attainder and confiscation, over which the local sovereignty has exclusive original jurisdiction; accordingly, the plaintiff being a citizen or a denizen of the State of New-York, has no remedy by an original suit in the federal courts, nor by a writ of error from the State courts, on questions arising from the federal constitution, since his case has never been submitted to the decision of the said State courts.

Charge of his honor Judge Thomson to the jury.

1. In the year 1697, a patent including the premises in question, was granted by the King of England to Adolph Phillips.

Observations in answer.

Ad. 1. The tract of land granted by this patent, being subject to a rent of twenty shillings, current money of the colony of New-York, to be paid annually in New-York, on the annunciation of the Virgin Mary, in lieu of all other rents, services due, &c. is not a *liberum tenementum* or *frank-tenement*, defined by Britton (vide

Blackstone, book 3, ch. 7) to be the possession of the soil in a person's own right, free from any rent or service. It is only a *tenement in fee simple*, but not *in fee*, granted by William the Third, as an appendage of the manor of East Greenwich, in the county of Kent, the ultimate property of which resides in the King, as lord of the said manor, and who, as Sir Edward Coke expresses it, has the *dominium directum*, while the patentee has only the *dominium utile*. It is a freehold interest, but not a freehold tenure. Therefore, as it was a qualified and conditional grant, subject to the lord's right of resumption, for the usual causes of forfeiture and escheat, as well as for default in the payment of the annual rent, &c. and as it does not admit of doubt that the annual rent of twenty shillings was not paid by the holders of the patent, whether in life interest or contingent remainder, to the people of the State of New-York, during nor since the revolution, the fee simple of the said patent had, on account of that default, duly and legally reverted to the people of this State, before the act of attainder against the tenants of the inferior fee, inasmuch as the said people had assumed, in 1776, all the territorial and seignorial rights of the King of England, which the said King confirmed to them in 1783.

8. In the year 1754, Mary Philips became seised in fee simple and in severalty of the premises.

3d. In the year 1758, a marriage settlement deed was duly delivered and executed, on or about the time it purports to bear date; the legal operation of which was to vest in Roger Morris and his wife, Mary, a life interest, with a contingent remainder to their children.

Ad. 2. This statement of the judge is conclusive as to the nature of the title of Mary Philips. It was, as it has been said above, a *fee simple*; therefore, as that inferior fee merged into the superior by the default of the tenants, the people were invested, in the ordinary course of law, with the full and entire title of the lands in question, when the deed in fee was executed to the purchasers of the said lands, by the commissioners of forfeitures.

Ad. 3d. Under the British jurisdiction, the legal operation of the marriage settlement deed may have vested in Roger Morris and Mary, his wife, a life interest, with a contingent remainder to their children; but under the jurisprudence of the state of New-York, that investment seems to be void.

Because, by breach of the custom of the manor, held by the king, and assigned by the state by his said majesty, the fee simple and the contingent remainder thereon, were forfeited to the state.

Because the act of attainder affected them both; and

Because the said act declares, that all those who have committed overt or implied offences against the state, *have lost all right to the benefit of the laws under which their property or contingent remainders, &c. &c.* were held or claimed.

The question then is, to know which of the two laws and jurisdictions is to prevail; the law and jurisdiction of England, under which the heirs of Morris have forfeited nothing, or the laws and jurisdiction of the state of New-York, under which they have forfeited all, by default, laches and treason to their liege lords, the good people of this state; for so saith the common law.

4th. Mr. Astor is now standing in the place of the children of Morris and his wife, having purchased and acquired all their interest by a deed executed in London, the 18th day of December, in the 50th year of the reign of George the Third, after the death of Mrs. Morris, which happened in the year 1825.

Ad. 4th. If Mr. Astor stands in the place of the children of Morris and his wife, it must be confessed that he stands in a bad place, because he stands before the American people in the attitude of a conspirator with attainted aliens, to defeat the vested rights of the people of this state, and empty the purses of his fellow citizens.

Because, in doing so, inadvertently, it is presumed, he has the appearance of having disregarded the duties which every good citizen owes to the government under which he lives, in return for that protection which has been afforded him.

Because, what might be more poignant for the feelings of a man more anxious than Mr. Astor, to preserve or to swell his fortune, he has thrown away his good money for a bad title—the Supreme Court of the United States having settled, in the case of *Hartshorne, vs. Wright and others*, “That a *deed* of land out of the

possession of the grantor, at the time of its execution, does not convey the lands which were out of the possession of the grantor at the time ;” and

Because, what must alarm more forcibly Mr. Astor’s sensibility, the same court has decided in the case of *Brook, vs. Marbury*, (Peters’ Rep. vol. v.) “That such a deed, if absolute and unconditional, is not only *void* but *fraudulent*”—an epithet also given by the statute of attainder to the purchase of any claim set up by persons affected by the said act, which epithet, being entirely applicable to the deed obtained and produced by Mr. Astor, gives it a very unsuitable badge, to support his claim.

So that, in a moral, legal, financial and criminal point of view, his honor the Judge does not seem to have strengthened the claim of Mr. Astor, when he has presented that gentleman to the jury as being in the place of offenders, which the common law, in its Gothic rudeness, calls *felons*.

5th. The children of Morris and wife could not assert in a court of law their right in the land in question, until the death of Mrs. Morris, in the year 1825. And since that period, there has been no want of diligence in prosecuting and asserting their claim.

Ad. 5th. The said children had, under the statute of attainder, and under the common law, lost, by their adhesion, with their father, to the enemies of their country, and by their voluntary alienation, since they have ceased to be minors, all right to ascertain in the tribunals of the United States and of this state, their title

to the lands in question ; they were dead in the eye of the law as much as their ancestors, and as it seems to be rational, that in a case of civil death, the resurrection should precede the exercise of civil actions, the diligence used to prosecute and assert the claim of the said heirs, does not appear to be sufficient to overcome the solution of continuity, created in their old English title, by its forfeiture to the people of this state ; because, though Mr. Astor is presented as being in the place of the heirs, he could not, in their place, have tendered the *juramentum fidelitatis*, or oath of allegiance to the people, nor most humbly prayed, in the name of those offenders and ousted tenants, for a pardon, which their English pride and inveterate torryism would have disdained to solicit, nor fulfilled for them other formalities of the common law, absolutely indispensable for the relief and re-investment of a forfeited fee.

6th. Every thing was done correctly as to execution, delivery and record of the deed of marriage settlement, lease, release, &c. &c. &c.

Ad. 6th. It is difficult to conceive how the correctness of all those technical formalities, performed under the British government, should have, like acute electric conductors, the magic virtue, to frustrate the revolution of its thunders, and to perpetuate a title which that memorable event has fulminated.

7th. The children made an application to the legislature in February, 1787, asserting and setting forth their claim, and they were told by the report of the committee, which was adopted by the house, "If you have a right, as you say you have, go to the courts of law where you will have redress."

Ad. 7th. This dignified and correct answer, dictated by A. Hamilton, confirms what has been above presented, as the rule of the common law, in cases of relief and restitution, of which the court of Chancery, for and in behalf of the king, as the keeper of his conscience, is the sole judge. At the date of that report, the Supreme Court of the United States was not organized, the reference was then made exclusively to the competent tribunals of this state, and as they could not deviate from the statutes of attainder, and from the principles and rules of the common law, in cases of forfeiture, the said report amounts to nothing more than a polite rejectment of the petition of an English lady, or rather of some concealed American speculator, on her former property, in as much as any eminent English counsellor, knowing that the common law of Great Britain continued to be the law of this state in matters of landed tenure, and that the judiciary power was as in England separate from the legislative, would not have advised such a misstep.

8th. The deed of the state to the purchasers of the confiscated property in question only passed such rights as the state had, and if the marriage settlement deed has been established, that was nothing more than the life estate of Morris and his wife. It is not

Ad. 8th. The warranty deed in full and absolute fee, given by the state to the purchasers of the confiscated lands, did effectually pass a much greater interest than the life interest of Morris and his wife and the contingent remainder of their children, in the fee

necessarily inferred from any of the acts of the legislature that the state intended to take any greater interest than such as the attainted persons had. They sold what the commissioners of forfeitures judged had been forfeited. They did not examine the state of the title, but only exercised their judgment upon such information as they had, and it was for that reason that the state conveyed with warrantee, as it could not be presumed that the state intended to conclude the rights of third persons who were not attainted.

9th. Therefore, concludes his honor the Judge, if the jury found that the marriage settlement deed was duly executed and delivered on or about the time it purports to bear date, the children of Roger and Mary Morris have acquired

simple of the lands in question reserved to them by the marriage settlement, because the title of the state to the said lands was composed,

1st. Of the superior fee or *dominium directum* which King William the third had not granted by his patent to Phillips, and which king George the third, has ceded and assigned to this state by the treaty of peace of 1783.

2d. Of the *dominium utile* or simple fee, which had reverted to the state and *merged* into the superior fee, on the two counts of, forfeiture by breach of covenant, and forfeiture by the treason and the criminal conduct of all the parties interested. Therefore if the commissioners of forfeitures have conveyed a greater title and interest than the attainted persons and their children had, they have conveyed no more than what belonged to the people, and when it is considered what venerated characters were at that period at the head of the legislative, executive, and judiciary branches of the government of this state, it is necessarily inferred that nothing was done but what was legally correct and just.

Ad. 9th. This conclusion, of the charge of his honor Judge Thomson, to the jury, is a clear demonstration that if the acts of 1827, and 1828, had not limited the defence on the part of the state to the ordinary course of judiciary

under it a contingent remainder, which became vested on their birth, and the plaintiff will be entitled to recover, *unless that interest was destroyed or put an end to by some subsequent reconveyance, of which the jury will judge and determine.*

proceedings in common cases of ejectment, and deprived by that humble course, the able counselors employed by the state, of the powerful artillery that the political law and rules of the Manor of Greenwich would have supplied to *destroy and put an end* to the interest of the heirs of Morris; and to blow up Mr. Astor's deed, it is highly probable that a verdict would have been found in behalf of the state, and that the Supreme Court would have confirmed it.

In support of that presumption which terminates the observations on Judge Thompson's charge to the jury, I will transcribe here the 14th article of the opinions and instructions which the same Judge on the same trial, expressed to be given to the jury.

"The whole title, both in law and equity which may or can have vested in the children and heirs of Roger Morris and Mary his wife, of, in, or to the lands and premises in question, has been, as between the grantors and grantees, legally transferred to John Jacob Astor, his heirs and assigns, according to the true intent and meaning of the acts of the legislature of the state of New-York, which have been produced and read upon the trial!"

The decision of the Supreme Court of the United States, on the present case, corroborates also the opinion that the defence restricted, clogged and fettered as it was by the acts aforesaid, was destitute of the merits which otherwise would have ensured its success. "The Supreme Court held, that the matters suggested by the defendant *were not sufficient* to bar or stay the plaintiff from having his writ of possession or possession of the land, without paying the whole or any part of the value of the improvements estimated or valued in any way whatever, and that the plaintiff should have a writ of possession of the lands."

Having cautiously followed in this Memorial the example of Teucer the son of Telamon, who never ventured to shoot an arrow, without being covered by the shield of Ajax, I will venture to offer

here in answer to the decision of the Judges of the Supreme Court, a remark of Locke, the great English metaphysician, who observes in his immortal researches on the human understanding, "*that very just conclusions may be drawn from the most erroneous principles.*"

In the present case the erroneous principle seems to be, to have grounded the defence on the rules of *the civil law*, which is the law regulating the respective interests of the individuals who compose a society, in lieu of the *political law*, which is the law regulating the collective interest of the society itself as a body politic; and also of the *law of nations*, which is the law regulating the interests between the several civilized nations inhabiting the globe. But if that error, originating from the pacific and benevolent intentions of the legislature of this state, has led astray, it will be seen in the next section that, if the judges of the Supreme Court of the United States, whose name is the collective idea of science, prudence and patriotism, as the Areopagium was among the Greeks, have been reduced to the painful necessity of pronouncing a judgment, contrary to the rights and interest of this state, they have, in other cases, marked out the course which may be pursued to avoid the fatal consequences of that unfortunate event.

SECTION V.

On the means of remedying the result of the proceedings of the Circuit and Supreme Courts of the United States, in the several Actions of Trespass and Ejectment, instituted by John Jacob Astor, against the Lessees of the state of New-York, in the counties of Dutchess and Putnam.

The Supreme Court of the United States has solemnly declared, in the case of *Elliot et alii, v. Peirsal*,* "*That where a court of law has jurisdiction of a matter, it has a right to decide any question which occurs in the cause, and whether its decisions be correct or otherwise, its judgments, until revised, are regarded as binding in every other court; but if it acts without authority, its judgments and orders are regarded as nullities, they are not voidable, but simply void, and form no bar to a remedy sought in opposition to them, even prior to a reversal. They constitute no justification, and all*

* *Peters' Rep.* vol. 1, p. 340.

persons concerned in executing such judgment or sentence, are considered in law as trespassers." And in the case of *Fullarton et alif, v. The Bank of America*,* the same court has further declared, "That when cases of difficult distribution as to powers and rights present themselves, the course of prudence and of duty, in judicial proceedings in the United States Supreme Court, is *to yield, rather than encroach*. The duty is reciprocal, and will no doubt be met in a spirit of moderation and comity. In the conflicts of power and opinion, inseparable from our very peculiar relations, cases may occur in which the maintenance of principles and the administration of justice, according to its innate and inseparable attributes, may require a different course, and when such cases do occur, our courts must do their duty, but until then, *it is administering justice, in the spirit of the constitution, to conform, as nearly as possible, to the administration of justice in the several states.*"

This being the decided opinions of the United States Supreme Court, it does not require the application of the science of mathematics on the calculation of probabilities, to anticipate, on the virtue of the said opinions, that if the present Legislature, considering that the acts of 1827 and 1828, are unconstitutional, derogatory, and injurious to the vested rights of the People, was to repeal the said acts *in toto*, replace Mr. Astor in the situation in which he was before the said acts were passed, return him his escrows, and *direct the Attorney-General to appeal openly in behalf of the State to the United States Supreme Court, upon the errors appearing on the face of the record and judgments of the several cases tried in the Circuit Court of the United States, in New-York, and the discovery of new matter and evidence, which confirm the title of the State, and disqualify the plaintiff from bringing the said causes within the jurisdiction the United States*; it would amount almost to a certainty, that a tribunal, created by a constitution, which is the work of the people of the separate states, in their respective sovereign capacity, would not overlook their reserved rights, in all matters which the federal constitution has not attributed to the judiciary department of the Union; that the said court would administer justice in the spirit of the constitution, pursue the course of prudence and duty, yield rather than encroach, and would either upon an inquest upon Mr. Astor's allegation, remit the investigation of his claim to the competent tribunals of this

* *Peters' Rep.* vol. 1.

state, or grant a venire de novo for new trials, under the rules of the courts of this state in cases of attainder, and the principles of the common law. The friends and associates of Mr. Astor will undoubtedly contend, that when laws are in the nature of an agreement they cannot be repealed: that the English doctrine of perpetual allegiance is repugnant to the principles of freedom, and inapplicable to this country; and *that the admission contained in the acts of 1827 and 1828, as well as the pleadings had thereon, are material, if not conclusive evidence against the state.* But shielded again, by the luminous opinions delivered by the Supreme Court of the U. States, and other eminent authorities, I will observe in answer to the first objection, that in the case of *Fletch vs. Peck*,* the said Supreme Court has declared that, "so far as respects general legislation, it is a correct principle that one Legislature was competent to repeal any act which a former Legislature was competent to pass, unless absolute rights were vested by those laws. And further, in the case of *Culden et uxor vs. Bull et uxor*,† "that the power of a state Legislature is not absolute and without control, although its authority be not restrained by the state or national constitution." And again, in the cases of *Dugan vs. United States*, and *Lee vs. Munroe et alii*,‡ "That a state is not bound by promises founded on a mistake of fact," and in the case of the *Hiram*,§ "That an agreement made under a clear mistake, is not binding in any court of law or equity."

Therefore, as the intent of the act in question is to retain vested rights and not to confine them, and as the submission of the states to the jurisdiction of the United States, is grounded on mistakes on the rights and title of the state, and on the false allegation that Mr. Astor was a citizen of another state, it seems that the repeal of the acts of 1827 and 1828 would be consistent with the principles of law declared by the highest court of judicature in the Union.

In reference to the English doctrine of perpetual allegiance, maintained by the Supreme Court of the United States, in the case of *Williams and others*, though it must be admitted that its full extent, as I contended in the year 1792, would be contrary to the liberty of mankind and to the natural right which every American citizen has of emigrating or removing his residence from one state to another, still, it is the law; and as such, the late Chancellor, James Kent, in his profound Lectures on the Laws of the United

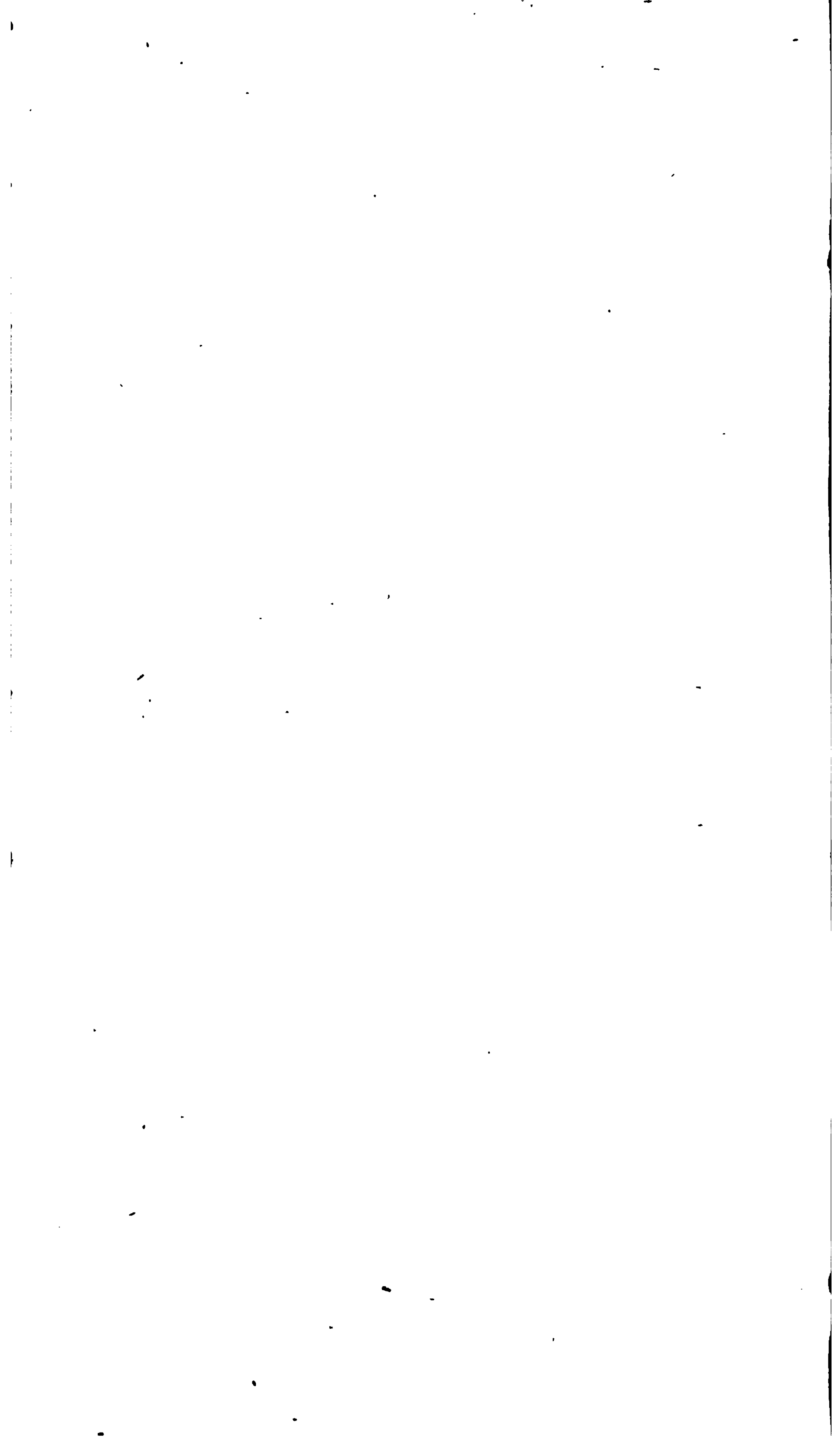
* Cranch's Rep. vol. 6. † 2d Dallas. ‡ 7 Cranch's R. § 1st Wheaton's R.

States, is of opinion "that until some legislative regulation on the subject is prescribed, the rule must prevail." But if ever a law of Congress modifies the rigidity of the English doctrine, it will certainly not be to favor fraudulent removals and fictitious changes of allegiance, calculated to defeat the sovereign rights and avoid the territorial jurisdiction of any of the independent members of this great confederacy. *And in reference to the admissions and pleas, it may be further observed, that the sovereignty resides in the people of this state and not in the legislature, whose power is not absolute, and without control,*" in as much as their prerogative, created for the benefit of the people, cannot extend to their injury, or impair their vested rights, which are imprescriptible, a fundamental principle which protects the rights of the people as much as it does those of the crown of England, which cannot be affected by any lache, negligence, limitation of time or error.

The United States are deeply interested to maintain the sovereignty of the states; it is the primary stratum of the federal government, and after the wise and patriotic declarations of the Judges of United States' Supreme Court, on that delicate subject, it cannot be presumed, that the sages who compose that high national tribunal, would encroach on those sacred rights, and refuse to yield, when it would be dangerous to resist.

EDMOND CHARLES GENET.

Prospect Hill, town of Greenbush, Dec. 9, 1830.



No. 30.

IN SENATE,

February 3, 1831.

ANNUAL REPORT

Of the Trustees of the Sailors' Snug Harbor.

**TO THE HONORABLE THE SENATE OF THE STATE
OF NEW-YORK.**

New-York, January, 1831.

The Trustees of the Sailors' Snug Harbor, in respectfully submitting their annual accounts, have the satisfaction of informing your honorable body, that the long protracted and expensive suits, involving the rights of the Trustees in the bequest of Robert R. Randall, has been finally settled by the decision of the Supreme Court of the United States, in February ~~last~~, confirming the right of the Trustees in the property devised,

The Trustees being thus relieved from litigation, are zealously engaged in fixing upon a suitable site for the purpose of erecting the Asylum, and carrying into effect the intentions of the donor.

WALTER BOWNE, *President,*

[S. No. 30.]

ANNUAL REPORT, &c.

The Trustees of the Sailors' Snug Harbor to John Whetten, Treasurer, Dr.

1830.					
Jan. 6,	To cash paid taxes on property in the 9th ward, for 1829,.....	\$581 63			
25,	“ refunded the Eagle Insurance company, this sum overpaid by them on the return of the State taxes for the years 1828 and 1829,.....	23 10			
Feb. 17,	“ this sum allowed Elisha P. Delaplaine on account of rent, agreeably to a resolution of the board of trustees, for damage to a brick building in consequence of removing the earth adjacent,.....	500 00			
March 26,	“ paid expenses of the committee appointed to examine and report a suitable site for an Asylum,.....	18 46			
April 8,	“ paid D. Mott for 2 grates and setting the same in house corner of 8th and Mercer-streets,.....	37 50			
7,	“ paid John Pintard, secretary, 1 year's salary to 17th February,	200 00			
“	“ paid W. F. Kellis, for a plan and estimate of an Asylum,.....	35 00			
8,	“ paid John Mealy for carting 21 loads and filling in ruts, &c. on 8th street,.....	3 96			
12,	“ paid Wm. Wirt, Esq., balance of counsel fee in suits of Ingals and others against trustees,.....	250 00			
“	“ paid the clerk of the supreme court for certified copy of decision and opinions of Judges Johnson and Story in the suit of Ingals,	79 00			
“	“ paid the corporation, 1 year quit-rent on lot in South-street,.....	23 51			
16,	“ paid L. Desbrow for iron crane for house in 8th street,.....	3 40			
	Carried forward,.....				

		Brought forward,.....		\$
1830.	To cash paid Wm. M'Neal for stating and copying the accounts for 1829,			25 00
April 20,	" paid clerk's fees, supreme court, in suit of Ingals,			50 00
30,	" this sum allowed John Craig on acc't of rent for repairs to house near Wooster-st.			2 00
May 5,	" paid treasurer's salary for 6 months, to the 1st inst... ..			750 00
6,	" allowed			0 50
7,	" d, repairs of lock No. 90 Front-street,			5 56
13,	" paid J.			6 30
22,	" paid Talman and Stewart for glazing do			
June 3,	" paid expenses of the committee in two visits to Staten-Island, examining situations for a site for Asylum,			9 15
10,	" paid A. Journey for cistern and repairs to house 89 Water-street,			51 96
12,	" " for repairs to store No. 90 Front-street,			2 84
	" paid Betsey Shields, her annuity,			100 00
	" paid Vanderbelt for use of steam-boat taking the trustees to Staten-Island and passages back,			13 00
July 6,	" paid corporation assessments for opening 8th, 9th and 10th streets,			46 26
	" paid J. Payton, levelling the ground on 9th and 10th streets,			2 18
7,	" paid corporation assessment on 4 lots on Broadway,			31 25
16,	" paid C. Brown for printing and posting hand bills offering lots in the 9th ward to lease,			4 50
18,	" this sum, by resolution of the board, agreed to allow S. M. Livingston, for assessments paid by him on lot No. 22 on 8th street, the lease of which relinquished from 1st May, 1830,			281 84
	" paid the secretary for 6 months salary,			100 00
27,	" paid J. Gatfield, painting houses in Water-street,			18 00
	" " store in Front-street,			18 00
28,	To cash paid expenses of the board of trustees on visiting the site recommended by committee for the Asylum,			40 25

July 30,	"	paid J. Payton for 1½ days labor on ground 9th ward,.....	1 31
Aug. 4,	"	allowed Gillespie and M'Leod for repairing and cleaning cellar, to store No. 90 Front-street,	12 54
18,	"	paid committee to Barton and Morris Plains,	4 13
24,	"	paid q., bill of taxable costs and law charges in ejectment and of trustees,	611 57
Sept. 16,	"	prem on house No. 89 Water-street,	23 00
	"	" " on store No. 90 Front-street,	17 00
Oct. 4,	"	" " No. 89. "	21 25
Nov. 4,	"	paid treasurer for 6 months salary to 1st inst.	750 00
	"	paid assessment on 2 lots, Nos. 4 and 5, Broadway, under lease, to James Hostin, and advertised for sale to pay the assessment,	41 16
17,	"	paid A. Journey for repairs to store No. 90 Front-street,	14 84
22,	"	paid T. R. Ludlum for sundry surveys and maps of the property in 9th ward, from August 1828, to May 1830,	172 00
24,	"	paid Daily Advertiser for 3 months advertising lots to lease,	15 06
	"	paid premium of insurance on house corner 8th and Mercer-streets,	18 15
Dec. 2,	"	paid Mercantile, for 3 months' advertising lots to lease,	15 06

To loans on Bond and Mortgage, viz :

March 3,	To Robert Center,	on interest at 6 per cent.	\$8,000 00
June 19,	To Isaac S. Schuyler,	do	5,000 00
July 19,	To Evert A. Baucker,	do	5,000 00

Carried forward,

1890.		Brought forward,.....	\$	
Sept. 28,	To Joseph Snyder,.....	on interest at 6 per cent.,.....	\$	482 00
Nov. 7,	To Evert A. Bancker,.....	"		4,700 00
Dec. 23,	To Rich'd Downing & D. Hopkins,	"		3,000 00
				<u>26,182 00</u>
<i>Invested.</i>				
Sept. 2,	To paid for 183 shares Mechanics' bank stock,.....		\$	4,575 00
	premium 7 per cent.,.....			320 25
				<u>4,895 25</u>
		Balance carried to credit,.....		<u>\$36,108 47</u>
				<u>1,646 36</u>
				<u>\$37,754 83</u>

The interest on the following bonds was reduced on the 1st May, from 7 to 6 per cent., viz:

James Whitles,	for	\$2,500 00
S. M. Livingston,	"	3,000 00
J. J. Coddington,	"	2,320 00
Peter Davy,	"	980 00
Wm. B. Townsend,	"	520 00
Joseph Snyder,	"	440 00
R. Maurie,	"	700 00
J. Hostin,	"	300 00
B. Cook,	"	300 00
		<u>\$11,060 00</u>

CR.

1850.

Jan. 1,	By balance in favor of the trustees, as per account rendered 31st December,.....	\$2,528 92	
Feb. 27,	By cash, for 18 shares Eagle insurance co. stock,.....	\$1,800 00	
" 15 "	"	1,500 00	
		<u>\$3,300 00</u>	
"	14 per cent. premium on \$1,800,.....	252 00	
" 13 1/4 "	" 1,500,.....	202 50	
		<u>454 50</u>	
May 1,	on account of the principal of J. Heaton's bond,		3,754 50
5,	of James Farquhar in full of his bond,		1,000 00
8,	for United States 6 per cent. stock paid off,		2,000 00
Aug. 25,	of T. Herring, in full of his bond,		3,400 00
Nov. 2,	of J. Harris,		4,000 00
3,	of John Rook,		1,600 00
April 8,	received for J. Pollock's note for balance due on surplus earth sold him,	662 19	
"	interest on renewal of the same,	8 00	
		<u>670 19</u>	
Interest and dividends on stock, viz:			
	United States \$3,400, 6 per cent., January quarter,.....	\$51 00	
	\$723.42, 3 per cent.,	5 42	
		<u>56 42</u>	
	April and July quarter,	112 84	
	October quarter, on \$723.42, 3 per cent.,	5 42	
		<u>174 68</u>	
	Carried forward,	\$	

1830.

Brought forward,..... \$

State of New-York, 6 per cent., \$4,000.

January, April, July and October quarters,

**Dividend, Jan. 18, on \$3 Eagle insurance co. at 4 per cent.,
on 356 shares Manhattan bank.**

January 11, on \$17,800, at 3½ per cent.	.....
July 10, " " " "	.....

on 354 shares Mechanics' bank.

February 10, on \$8,850, at 3½ per cent.,.....
 August 11, " " " ".....

on 42 shares City Bank.

May 4, on \$2,100, at 3 per cent.....	\$63 00
Less tax retained,.....	6 30

Tax returned,

November 3,	63 00
Less, tax retained, .....	. 630

on 120 shares Merchants' Bank.

June 3, on \$6,000, at 3 per cent., and tax returned, \$27.50

Dec. 3,

[SENATE]

8

240 00
132 00

623 00 623 00

1,246 00

309 75 309 75

619 50

56 70

22

33

025870

86-811

2017.50

180 00

387 50

on 125 shares Mutual insurance company.

June 8, on \$6,250, at $3\frac{1}{4}$ per cent.
 " " " "
 Dec. 3, " " " "

[illegible]

218 75

21878

437 60

3,358 14

[S. No. 80.]

By Interest received on Bonds, viz:

Feb. 18, Of Wm. B. Townsend on \$520, for 6 months to 1st November, 1829,
" " " " " " to 1st May, 1830,
" Aug. 2, " " " " " " to 1st May, 1830,

* " Aug. 2,
" " to 1st May, 1890,
" " " " " " " " " " " "

19, Of B. Cook,.....on \$320, " to 1st Nov. 1829, at 7 pr ct.

" July 2,
to 1st May, 1890,

" Dec. 2,
" " "
" to 1st Nov. " 6 "

805

20, Of J. J. Coddington, on \$2,320, " to 1st Nov. 1829, 7 "

“ June 8, “ “ to 1st May, 1890, “ “

[illegible]

23200

May 1, Of J. Heaton,.....on \$4,000, “ “ to 1st May, “ “

"	Nov. 4, 3,000,	"	to 1st Nov.	"
"	Nov. 4, 3,000,	"	to 1st Nov.	"

210 00

3, Of R. M'Dermut,... on \$5,000, " " to 1st May, " "

“ Nov. 4, “ “ to 1st Nov. “ “

300 00

5, Of J. Farquhar,..... on \$2,000, " " to 1st May, " 7

Of J. Rook,	on \$5,000,	"	"	to 1st May,	"
					6

" Nov. 3, " to 1st May, "
" Nov. 3, " to 1st Nov. "

3000

Carried forward,.....\$

3000

	"	Nov. 5,	"	"	to 1st Nov.	"	6	"	90 00	300 00
Sept. 28,	Of Jos. Snyder,....	on \$440,	"	"	to 1st Nov. 1829,	"	7	"	15 40	
	"	"	"	"	to 1st May, 1830,	"	"	"	15 40	
										30 80
Nov. 3,	Of E. A. Bancker,	on \$5,000,	from 19th July,	to 1st Nov....	6	"			85 00	
16,	Of J. S. Schuyler,	on \$5,000,	from 19th June,	"	"	"			110 00	
										195 00
										3,006 75

'By Interest received of the following persons, viz :

May 19,	Of P. Davy,	for 6 months on \$594.60,	balance 1st Nov. 1829,.....	17 83
8,	Of J. D. Aymar,	on arrears of ground rent,	and 90 days on note received on account,	47 00
	Of Wm. B. Townsend,	on \$213.20,	balance due,	8 19
July 19,	Of S. M. Livingston,	on \$172.50,.....	.....	6 33
Sept. 22,	Of Jos. Snyder,	on \$99.40, .....	.....	6 36
				80 71

By Rents received per statement annexed, viz :

On account of rent accruing from the 1st Nov: 1829,	to 1st Nov. 1830,...	5,035 75
On account of rents outstanding to 1st Nov. 1829,	.....	2,314 87
Of J. J. Coddington,	for temporary use of vacant lot on 9th-street,.....	7 00
		7,357 62

\$37,754 83

By balance,	\$1,646 36
Which is in cash on hand,	\$1,187-36
Peter Davy's 3 notes,	459 00
	<u>\$1,646 36</u>

OUTSTANDING—Interest due on bonds and mortgages to 1st Nov. 1830, viz :

T. A. Emmet's for \$2,100,	\$220 50
New-York steel manufacturing co. for \$2,500,	262 50
Wm. B. Townsend, \$520,	15 60
J. Hostin,	40 50
J. Snyder,	13 20
J. Snyder,	2 57
	<u>539 10</u>
Balance due on rent,	1,452 00
	<u>\$1,991 10</u>

Errors excepted.	New-York, 31st December, 1830.	JOHN WHETTEN, Treasurer.
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Rent Account from 1st November, 1829, to 1st November, 1830, including the outstanding rent to 1st November, 1829.

	No.		\$160 00	\$160 00	.....	\$80 00	\$80 00
Mrs. B. Cook,.....	1,	Broadway,.....	\$160 00	\$160 00	.....	.....	\$80 00
S. M. Livingston, ...	2, 3,	"	255 00	300 00	.....	173 50	173 50
	22,	on 8th-st. (to 1st May, 1830,)	90 00	.....	.....	.....	.....
J. Hostin,	4, 5,	Broadway,.....	282 00	.....	282 00	185 00	.....
John Harris,	7, 8,	"	230 00	.....	.....	.....	.....
		vacant ground in rear,.....	50 00	570 00	.....	.....	.....
	6, 9,	Broadway,.....	290 00	.....	.....	.....	.....
G. Pardon,.....	11,	"	130 00	.....	130 00	130 00	25 00
Peter Davy,.....	12, 13,	" to 1st May, 1830,	260 00	.....	.....	.....	.....
	28,	on 9th-street,	66 00	396 00	.....	526 00	526 00
	32, 33,	Bowery,	200 00	.....	.....	.....	.....
	33, 24,	on 9th-street,	128 00	128 00	.....	.....	.....
	39, 42 and 46,	Bowery,	495 00	495 00	.....	247 50	247 50
	29,	on 9th-street,	66 00	.....	66 00	66 00	.....
W. M. D. Lowmushu, ..	30, 31,	Bowery,	200 00	195 00	195 00	195 00	195 00
	51, 52,	on 10th-street,	190 00	.....	.....	.....	.....
Joa. Snyder,.....	47, 48,	Bowery,	168 00	84 00	84 00	84 00	84 00
P. Maurie,	49,	"	100 00	100 00	.....	.....	.....
M. Floy,	Corner	Broadway and 8th-street,	140 00	.....	140 00	140 00	.....
Mrs. Rodney,.....	do	6th-st. & 5th av. to May 1, 1830, \$124, .....	.....	.....	60 00	19 00	18 00
Philip Parsien,	do	do from May 1, 1830,	130 00	44 00	16 00	.....	.....
Robert Boyd,	Small building near 6th and Worcester-sts. ....	.....	.....	.....	.....	45 00	.....

"	by G. Pardon,	130 00
"	"	105 00
		<hr/>
		235 00
"	by Mrs. Rodney,	60 00
"	"	1 00
		<hr/>
"	by Robert Boyd,	61 00
		45 00
		<hr/>
		808 00

Amount which will probably be collected,..... \$1,452 00

The annual ground rent, as per statement, is.....	\$7,020 00
From which deduct the following leases, which the Board agreed to cancel from 1st May, 1830:	
On lot No. 22, on 8th-street, to S.M. Livingston,	\$90 00
" 12 and 13, on Broadway, to P. Davy,	260 00
From the inability of the tenants to pay the rent, the Trustees will have to re-enter on the following:	
Lots Nos. 4 and 5, on Broadway, leased to James Hostin,	282 00
No. 11, " to G. Pardon,	130 00
	<hr/>
	762 00

Which will reduce the annual rent to, \$6,258 00

Errors excepted. New-York, 31st December, 1830.

Statement of the Funds and Annual Income of the Sailors' Snug Harbor, 31st Dec. 1830.

Annual rent, estimated at,					\$6,258 00
United States 3 per cent. stock,				\$723 42	21 68
State of New-York, 6 per cent. stock,				4,000 00	240 00
<i>Bank Stock.</i>					
Mechanics',	537 shares, \$25 each,	\$13,425 00		7 pr ct. \$939 75	
City,	42 " \$50 "	2,100 00		6 " 126 00	
Merchants,	120 " "	6,000 00		6 " 360 00	
Manhattan,	356 " "	17,800 00		7 " 1,246 00	
			39,325 00		2,671 75
Mutual insurance co. 125 "			6,250 00	7 " "	437 50
<i>Bonds and Mortgages.</i>					
T. A. Emmet's		\$2,100 00			
S. Van Beuren's		1,500 00			
New-York steel manufacturing company,		2,500 00			
			6,100 00	7 " "	427 00
James Whittey,		2,500 00			
B. Cook,		300 00			
J. Snyder,		440 00			
W. B. Townsend,		520 00			
J. Hostin,		300 00			
W. D. Desbrow,		280 00			
P.		700 00			
P.		700 00			
J.		2,320 00			
S.		3,000 00			
R.		5,000 00			

J. Heaton,	3,000 00				
R. Center,	8,000 00				
J. S. Schuyler,	5,000 00				
E. A. Bancker,	5,000 00				
Joe. Snyder,	482 00				
E. A. Bancker,	4,700 00				
R. Downing & D. Hopkins,	3,000 00				
	<u>45,242 00</u>				
		51,342 00	6 "	2,714 52	
				<u>3,141 52</u>	
Cash, balance on hand,		1,187 36			
Peter Davy's 3 notes,		459 00			
		<u>108,286 78</u>			
				<u>\$12,770 45</u>	
					17
House, corner 8th and Mercer-streets, cost,	4,515 80				
do corner 8th-street and 5th avenue,	400 00				
Store No. 92 Front-street,	6,600 00				
Land purchased of the corporation,	12,382 00				
	<u>23,897 80</u>				
Outstanding interest on bonds,	539 10				
Outstanding rent,	1,452 00				
	<u>1,991 10</u>				
		<u>\$129,175 68</u>			

Amount of funds in different stocks, bonds and mortgages, and cash on hand, per statement of 31st December, 1829,..... \$93,712 34
Received, from 31st December, 1829, to 31st December, 1830:

Gain on sale of 33 shares Eagle insurance company,..... \$454 50
for J. Pollock's note for surplus earth,..... 670 19
for interest and dividends on stock,..... 3,356 14
do on bonds and mortgages,..... 3,006 75
do on sundry balances,..... 80 71
for rent, 7,357 62

14,925 91

108,638 25

Expended, for taxes, assessments, law charges, salaries, and other charges, as per account,.... 5,031 22
premium on purchase of 183 shares Mechanics' bank,..... 320 25

5,351 47

Balance, being the amount of bonds and mortgages, par value, of stock and cash on hand, as per statement,... \$103,286 78

New-York, 31st December, 1830.

JOHN WHETTEN, Treasurer.

[SENATE

The executive committee of the Trustees of the Sailors' Snug Harbor, having attended to the duties assigned to them, pursuant to the standing order of the Board, do REPORT :

That they have carefully examined the Treasurer's accounts from 31st December, 1829, to 31st December, 1830, and have compared the several vouchers, evidence of bank, insurance, and other stocks, bonds and mortgages, &c., and have found the same to be correct ; and that there is a balance, in favor of the trustees, of sixteen hundred and forty-six dollars and thirty-six cents, viz : in cash balance in his hands, eleven hundred and eighty-seven dollars and thirty-six cents, and three promissory notes of Peter Davy's for four hundred and fifty-nine dollars.

R. RIKER, *Recorder.*

ROBERT LENOX, *President*
of the Chamber of Commerce.

IN SENATE,

February 12, 1831.

REPORT

Of the Surveyor-General, on the petition of the owners of lands in township number eleven, of the old military tract.

The Surveyor-General, on the petition of the owners of lands in township number eleven, of the old military tract, referred to him by the honorable the Senate,

RESPECTFULLY REPORTS :

That the petitioners state that, owing to the lapse of time since the survey of this township was made, the marks and numbers of the several lots have been so far obliterated and overgrown, as to produce great uncertainty and confusion in distinguishing the several lots, and that conflicting claims have already arisen, threatening to involve a long, expensive course of litigation, and permanently to retard the settlement of the tract, although extensive purchases have been made therein; and thereupon, they pray that a new survey of the township may be ordered by the Legislature, and that the lots may be so marked as to preclude controversy as to their boundaries.

In 1804, Stephen Thorn, then a member of the Assembly from the county of Washington, and reputed to be a good surveyor, was appointed to survey this township into lots suitable for sale, which service he performed in that year, and made a return of survey in due form, under oath, annexing to each lot his valuation of its worth. From this valuation, the Commissioners of the Land-Office directed a deduction of ten per cent to be made for the minimum prices at

the auction sale. All the lots in the township were then advertised and offered for sale in the manner directed by law. Some lots were at that time sold, of which the greater part has since been resold for arrears due on them, and bought in for the State. In 1824, the Commissioners of the Land-Office, finding that these lands were unsaleable at the minimum prices set on them, caused a re-appraisal to be made, which proved to be considerably lower than the valuation of the surveyor. After that, all the unsold lots in the township were again advertised and vendued, having the minimum prices adjusted to the report of the appraisers; since which, the sales have annually, but slowly, progressed. The township consists of three hundred and twenty-eight lots, of which two hundred and sixteen remain the property of the State.

The facts stated by the petitioners have been frequently mentioned to the Surveyor-General, by persons who have explored the tract, and by others who have become interested in it by purchases; besides which, it has been credibly asserted that, in many instances, the lines marked on the ground vary materially from the descriptions given in the returns of survey and the maps delivered with them. These evidences are sufficient to induce a belief that the survey was unfaithfully made. Under all the circumstances of this case, the Surveyor-General is of the opinion that the request of the petitioners is reasonable, and that the granting of it would promote the sale of the lots in this township which now belong to the State, and accelerate the settlement of the tract.

Respectfully submitted.

SIMEON DE WITT, *Surveyor-General*.

February 9, 1831.

by the Surveyor-General, in 1823, to be 991,659 acres. A portion of these lands has since been sold, and the proceeds form part of the above mentioned sum.

By the Revised Statutes, the sum of \$100,000 is directed to be distributed, as the revenue of the common school fund, for the support and encouragement of common schools; and as often as such revenue is increased by the sum of \$10,000, such increase shall be added to the sum to be distributed; and whenever the revenue of the common school fund shall be insufficient to satisfy the annual appropriation of \$100,000, the deficiency shall be supplied and paid from the general fund.

The above provisions were contained in an act of the Legislature, passed in 1826, and were re-enacted in the Revised Statutes.

During the years 1827, 8, and 9, more than \$25,000 were drawn from the general fund, to make up the deficiency in the revenue of the common school fund, in pursuance of the requirements of the act of 1826. The revenue from the school fund was sufficient for distribution last year, without resorting to the general fund; and its estimated revenue for the current year is also deemed sufficient. But it should be recollected, that in case of failure, for any cause whatever, to supply its own revenue, the general fund is still liable to be called on. By the failure of the Middle District Bank, in May, 1830, the \$50,000 of its stock belonging to the common school fund is deemed a total loss, and must therefore be deducted from the principal of the fund from which revenue has heretofore been derived.

This fund has received from the general fund, from 1816 to 1827, inclusive, by appropriation of certain lands and quit rents, in exchange of funds, balance of the loan of '86, and in bank stock, the sum of \$327,156, in addition to the 991,659 acres of unappropriated land above mentioned, and which was secured to this fund by the new constitution.

It is believed that the revenue from this fund will hereafter produce the \$100,000 required by law for distribution; but some time must probably elapse, before the common schools throughout the State can receive the additional sum of \$10,000 of increase contemplated by the provisions of the Revised Statutes.

From this it will be seen, that, although this fund may hereafter sustain itself, still, it is enabled to do it only by means of the heavy drafts that have already been made in its favor, on the general fund; and at the same time, leaving the latter liable to the contingency of supplying any deficiency in the revenue of the former, which may hereafter occur.

LITERATURE FUND.

This fund consists of bonds for lands sold, and for loans of capital; of money in the treasury, being balance of receipts from capital, amounting to \$185,036.15, and also of certain stocks and loans to individuals, subject to the control of the Regents of the University, to the amount of \$71,307.37; making in the whole, \$256,343.52.

By the Revised Statutes, the Regents of the University shall have the control of the whole income arising from this fund, and shall annually distribute the same, according to the provisions of the statute, among such of the incorporated seminaries of learning, exclusive of colleges, as are now subject or shall become subject to their visitation, by a valid corporate act.

This fund, although not guaranteed, like the common school fund, by any constitutional pledge, has ever been considered as inviolably set apart for the specific objects contemplated by its creation; and no one can be ignorant of its benign influence on the academies throughout the State, which have shared in its bounty, and which hold a middle rank between our colleges and common schools.

This fund, too, like its fellow, the common school fund, has, during the same period, drawn heavily, in proportion to its capital, upon the general fund. It has received from that source, by appropriation of certain lands and quit-rents, and in canal stocks, the sum of \$181,898.46.

From the comparatively limited means of this fund, no effort can be anticipated to divert it from its legitimate purposes. For while its benefits in the present distribution of its income are sensibly felt, its whole capital devoted to works of internal improvements would form but a meager portion of the expense required.

IN SENATE,

February 21, 1831.

REPORT

**Of the committee on the judiciary, in relation to
lands claimed by E. Ellice.**

The committee on the judiciary, to which was referred the petition of sundry inhabitants of the town of Little-Falls, in the county of Herkimer, and other inhabitants of said county, in relation to the claim and title of Edward Ellice, in and to certain real estate in said town of Little-Falls,

RESPECTFULLY REPORT :

That the petitioners represent, and such is the undoubted fact, one Edward Ellice, of the kingdom of Great-Britain, claims to be, and is the reputed owner of a very large portion of the unoccupied real estate and water privileges in the village of Little-Falls, and also of extensive portions of land in the vicinity of said village, claiming the same by descent from his father Alexander Ellice, and by purchase from his co-heirs and devisees, the other children of the said Alexander Ellice, deceased.

Some time previous to the year 1817, the widow and children of the said Alexander Ellice, had granted a considerable number of village lots upon leases in perpetuity, reserving an annual rent to them or their assigns; and some of the lots were granted in like manner, previous to the death of the said Alexander Ellice; making in the whole number about one hundred village lots, now held upon leases in perpetuity. And the petitioners represent, that about twenty farms adjacent or near to the village, are held upon the like terms and in the same manner. That said Edward Ellice, or his agents and attornies, now lease a grist and saw-mill within the

said village, reserving an annual rent of about nine hundred dollars per annum, as well as several farms and other lots of ground, within the boundaries of the said village, and some farm lots in Vaughn's Patent, on the south side of the Mohawk river.. The grist-mill above mentioned has been erected since the year 1817, upon the spot where one had previously stood, and which was burned down. The mills, lots and farms last above mentioned, have been and are leased from year to year, or for a short term of years, and Edward Ellice is the reputed landlord, or is claimed to be such. Since the year 1825, the said Edward Ellice, by his attornies, has granted and sold a number of village lots in fee, and it is believed that he has either granted and sold, or contracted so to do, some of his farm lands situate in the county of Herkimer. It is not known, nor is it believed that any of the co-heirs or co-devisees of the said Edward Ellice, claim any right or interest in any of the lands and real estate, situate in the county of Herkimer, whereof Alexander Ellice, died seised or claimed to be seised. And upon a reference to the records in the office of the Secretary of State, it will be seen that all such right and interest has been conveyed, or is deemed by the parties in interest to have been conveyed to the said Edward Ellice, between the years 1817 and 1822.

On the 15th day of April, 1817, (see Session Laws of 1817, chap. 243, page 282,) the Legislature passed an act containing the following preamble: "Whereas it has been represented to the Legislature, that Alexander Ellice, late of the city of London, deceased, died seised of a considerable real estate within this state, leaving his widow, Ann Ellice, and his children, William Ellice, George Ellice, Alexander Ellice, junior, Russel Ellice, Mary Martha Ellice, Helena Ann Ellice, and Catharine Ellice, his devisees and heirs, and that for the more easy division of the said estate, the said widow and children above named, are desirous to grant, bargain and convey their right, title and interest in and to the aforesaid real estate, to the above named Edward Ellice, his heirs and assigns, with interest, that he and they may be enabled to grant, bargain, sell and convey the same in fee simple; but that by reason of the alienism of the said Edward Ellice, he is disabled to take by *purchase*, the right and title of his co-devisees and heirs in and to the said real estate." Then follows the enactment in these words: "That the said Edward Ellice shall be, and hereby is enabled to take by purchase from his co-devisees and heirs, to him, his heirs and assigns, all their right, title and interest in and to the real estate

whereof the said Alexander Ellice died seized, situate within this state; and that it shall be lawful for the said Edward Ellice, his heirs and assigns, to grant, bargain, sell, convey and dispose of the same, to any person or persons who are authorised by law to purchase and hold real estate within this state, in like manner as natural born citizens: Provided always, that it shall not be lawful for the said Edward Ellice, or his heirs, to demise any part of the said real estate for any term, or to charge the same with any rent."

It will not be pretended, on the part of the said Edward Ellice, that he can claim any thing by right of citizenship in this country. He has heretofore been a member of the House of Commons, in Great Britain, and in the late change of the ministry, he was, it is believed, appointed one of the Secretaries of the Treasury, under Lord Grey, the present prime minister.

But the Legislature of this state, in the year 1822, (see Laws of N. Y. Sess. 45, chap. 158) passed an act enabling the said Edward Ellice and upwards of one hundred and fifty other persons, to take real property in this state, either by demise, descent or purchase, and to *hold, convey or dispose* of the same, in like manner as natural born citizens, notwithstanding the alienism of the said persons, or any of them. The second section of this act provides, that no lands, tenements or hereditaments within this state, theretofore purchased by, or devised or descended to any of the persons named in the act, shall escheat to the people of this state, on account of such person's then being an alien; but all such lands, &c. shall vest in the same manner as if such persons had been duly naturalized at the time the title thereto was acquired.

The whole scope and intendment of the first section of the act is clearly, to enable the persons therein named to take, hold and convey real estate, after the act should become a law. In this particular the provision is prospective entirely. It releases no right, confirms no previous grant, nor does it enlarge or modify any power previously conferred. The second section declares that no lands purchased, devised or descended before the passing of the act, shall escheat by reason of the alienism of the grantee, devisee or heir at the time of the purchase, &c.; but that all such lands, &c. shall vest in the same manner as if the party had been duly naturalized at the time the title was acquired. The committee are not informed, nor can they, from a full examination of the records in the office of the

Secretary of State, and a careful consideration of the provisions of the act of 1817, discover any good reason why the provisions of the said second section were necessary in order to confirm to said Edward Ellice the title which he might have previously acquired under and in pursuance of the latter act. This, however, might have been the case in respect to many of the other persons named in the statute. None of the provisions of the act of 1817 are expressly repealed, modified or altered by the act of 1822.

Under these circumstances, the question arises, whether the release by the State of all title to the lands before purchased by, devised or descended to, an alien, incapable of holding, and the declaration, that by reason of such person being an alien, and therefore incapable of taking, the lands shall not escheat for that cause; and that all such lands *shall vest* in the *same manner* as if the grantee, devisee or heir had been duly naturalized at the time the title was acquired, can by implication be taken as a repeal of the proviso of the first section of the act of 1817. The obvious intention of the Legislature seems to be to prevent any interruption or failure of title to real estate in a given case, and for a particular cause, clearly expressed. It must be also observed, that the Legislature have not declared that such lands *shall vest* in the same manner and to the *same extent* as if the grantee, &c. had been duly naturalized.

The premises claimed by Edward Ellice, at Little-Falls, were demised, by Alexander Ellice, the ancestor, as early as May 24th, 1794, to one John Porteous, for the term of ten years, and for and during the natural life of the said John Porteous, and were surrendered up by the executors of the said John Porteous, by an instrument bearing date March 19th, 1801; and these lands have been held, or claimed to be held, under the said Alexander Ellice, and his heirs at law, ever since; some part of which, prior to the year 1817, were granted upon durable leases, as before stated, and usually reserving an annual ground rent upon each lot, of three dollars. On the 15th day of July, 1817, the widow of the said Alexander Ellice, and six of the heirs at law, conveyed, by deed, to the said Edward Ellice, his heirs and assigns for ever, all their right and interest in two hundred thousand acres of land, more or less, described as situate, lying and being partly at Little-Falls, on the Mohawk river, describing and designating the patents and tracts as being located in the counties of Ulster, Greene, Clinton, Washington, Essex, Herkimer, Montgomery, Onondaga, Franklin, Cayuga, Ontario, and

Steuben, in the State of New-York. On the 19th day of January, 1821, the two remaining heirs at law, by a like deed, conveyed all their right and interest in the same lands to the said Edward.

It will be perceived, from the preceding statement, that Edward Ellice took eight ninth parts of the lands of which his father died seised, and his brothers and sisters conveyed to him under the act of 1817. On a careful examination of these deeds, the committee are unable to detect any fault in the form or execution thereof.

If the act of 1817, authorised the one party to convey and the other to purchase, it is not perceived why the second section of the act of 1822, was at all necessary to vest in Edward Ellice the lands described in the above deeds, unless the defect existed anterior to the year 1817, to which fact the committee have not extended their inquiries; or said Ellice may have taken other lands by purchase between the years 1817 and 1822, in which case this provision would apply.

On the 16th day of February, 1825, the attornies in fact of the said Edward Ellice, caused a petition to be presented to the Legislature, which represented, " That Edward Ellice, residing in the kingdom of Great Britain, is seised of a very considerable real estate within this State, which has descended to him, as one of the heirs at law of his father, Alexander Ellice, deceased, and which he has purchased of the other heirs to said estate : That a portion of the said estate was acquired by the said Alexander Ellice, previous to the revolutionary war ; and a part of it taken for debts accrued anterior to the said war : That on some parts of the said estate, are valuable sites for mills and other hydraulic works : That your petitioner has, within a few years past, expended large sums of money in improving his said lands ; That the times are unfavorable to the sale thereof : That your petitioner is desirous of being vested with the right of leasing the said land for a term of years, so that he may be enabled to realize something for the use thereof; and to remunerate him for the interest of such expenditures, and the annual taxes which are assessed upon the same, until sales can be effected. But if that should interfere with the policy of the honorable the Legislature, in prohibiting aliens to lease their lands, your petitioners pray that they will be pleased to pass a law to enable him to improve his water privileges, so as to make them productive to himself, and conducive to the convenience and accommo-

dation of the country around them, by building mills or other hydraulic works, and leasing them, together with small parcels of land attached thereto, for short terms."

This petition was referred to the committee on the judiciary, in the Senate, and towards the close of the session of the same year, some provisions were incorporated into the general act concerning aliens, authorising said Ellice to lease lands for a term of years, and passed the Senate, but were rejected in the Assembly.

The committee will now return to the consideration of the acts of 1817, and 1822. The prohibition contained in the former act is, "that it shall not be lawful for the said Edward Ellice, or his heirs, to demise any part of the real estate which he should purchase of his co-devisees and heirs for any term, or to charge the same with any rent." The power to purchase and to sell the same in fee, to a person capable by our law of taking and holding, was all the authority conferred by this act. It may, perhaps, be urged that under this provision said Ellice took an estate and title subject to be defeated and to escheat, if he should lease the same, but such is not the opinion of the committee. The legal effect of the proviso seems to be not to work a forfeiture of the estate demised or leased, but to render the contract, reserving rent invalid and ineffectual, by prohibiting the individual from exercising that particular power in relation to it.

It is believed that effect can be given to the act of 1822, so far as the same relates to said Ellice, and leave the provisions of the former act in full force. It must be obvious to all, that an individual owning in fee, two hundred thousand acres of land in this State, and selling it as purchasers might offer, in small parcels, would find it convenient to take mortgages back, as a security for a part of the purchase money, or perhaps the whole; and although Edward Ellice might have power to take the mortgages, and although the mortgages might be valid taken to him, the act of 1817 did not authorise him to purchase the premises mortgaged upon a foreclosure and sale; and hence the necessity of the act of 1822, which authorised him to take real property by purchase, and to hold and convey the same. The committee have before, and would again remark, that none of the provisions of the former statute are expressly repealed by the latter. Is there then such a repugnance between the provisions of the two statutes, that the latter enactment by a necessary implication must be held to repeal in effect the provisions of the for-

mer? If this be not so, then force, legal effect, and validity must be given to both enactments. If the provisions of these two statutes are not inconsistent, then they must stand.

The committee understand the rule to be well settled, that repeals of statutory provisions by implication, are in no respect favored. That Edward Ellice, in 1825, entertained the views above suggested by the committee, in regard to his power, is very evident from the whole tenor of his petition, and from the fact that he sought the passage of a law authorising him to lease the very lands conveyed to him pursuant to the act of 1817, for a term of years, or if this should be deemed to interfere with the policy of the Legislature respecting non-resident aliens, then power to improve his water privileges by building mills or other hydraulic works, and leasing them for short terms, was asked for. If he possessed these powers by the act of 1822, why the necessity of any more or additional authority? Some of the acts complained of by the petitioners are, that the said Edward Ellice, by his agents, either in his or their names, since the year 1817, and subsequent to the execution of the above conveyances, has exercised the power of renting mills, farms, and lots, and water privileges, receiving an annual rent, which leasing and being in the receipt of rent, it is supposed lessens the desire on the part of the owner to sell these premises in fee, to resident citizens of this state, who would have a desire and feel an interest in the permanent improvement of the place.

This inference, in the opinion of the committee, is not only just and reasonable, but such practices are deemed in direct hostility to the genius and spirit of a government resting as does ours, upon public opinion and general suffrage.

The committee indulge a strong and lively hope that the legislature will not permit non-resident aliens to hold real estate within this State, any longer than is absolutely necessary to protect the right vested, and to preserve good faith towards those who hold their lands and conduct their affairs in regard to their estates in strict conformity to the laws, and observe the conditions upon which they have been permitted to take their real property. We do feel that we have something more than mere conjecture and fancied speculation, as the basis of this expectation. The history of the legislation of this State for the last six years, evinces a firm and settled determination on the part of the Legislature not to permit non-resident aliens to purchase and hold large tracts of real estate

within this State, and to exercise all the acts of ownership over it which a citizen may.

In theory we may indulge in the opinion that our citizens are too independent, enlightened and patriotic to be influenced and controlled by the will and wishes of a landlord; but is this true practically? When the rent has accumulated to an amount beyond the present means of the tenant to liquidate; when a little yielding of opinion may perhaps save from distress and want a family, and from the gripe of an iron handed landlord and his pliant and obedient bailiff, the little all procured by the labor and toil incident to an agricultural life; is it in the nature of *all* men not to do so? If it be not, then should we for one moment suffer any, the least influence to be exercised over the citizens of this State, by a foreign landlord, who owes no allegiance to our government, constitution or laws; but whose education, interest, feelings and notions of government, all combine to render him incapable of appreciating the wants, feelings and wishes of the citizens of this country; and whose object, in most instances, is to be in the receipt of a moderate interest upon the capital invested. Generally, he wishes not to alien his estate in fee; in those countries where the government is stable, he chooses rather to retain it for the benefit of his family.

Such are supposed to *have been* and *now* to be the motives which govern the proprietor of the lands particularly alluded to by the petitioners, which supposition is strongly fortified by the whole tenor of his petition above mentioned. All past experience in this country, so far as we can have that test as a guide, clearly demonstrates that a population living upon farms or other premises, rendering and paying rent to a foreign landlord, is not the most healthful and prosperous. This fact is more strikingly illustrated in this country from observation only, than any of the old countries in Europe. Here the agriculturalist and farmer, in most instances, owns the land he cultivates, in fee, and sound policy dictates that this should be so.

Without attempting, at this time, to enlarge upon what the committee deem to be the settled maxims of the legislature of this State, and our true policy, we would refer the Senate to several statutes relating to aliens, as having a strong bearing upon and connected with the subject under consideration.

As early as 1798, an act was passed to enable non-resident aliens to purchase and hold real estate, within the State, inhibiting such

aliens and their heirs or assigns, being aliens, from demising and leasing the same or charging any rent thereon. This act was in force three years, and the conveyances taken under it were required to be recorded in the office of the Secretary of State, within one year from the date of the same, and in default thereof, the premises conveyed should enure to the people of this State. Subsequently a number of acts have been passed authorising non-resident aliens to purchase, hold and convey real estate, containing prohibitions, similar to the act of 1817, in regard to Edward Ellice. Although the committee are not informed of any violation of the provisions of the several statutes herein alluded to, except in the case referred to by the petitioners; such, however, may exist, and the committee deem it proper to recommend a remedy which shall be general and applicable to every possible case which may arise upon any of these statutes.

If the committee are correct in the supposition that the alien does not forfeit the estate by acting beyond his powers, and doing an act which he is not authorised to do, then it would seem there is no power left with the Legislature but to inflict a penalty upon the person acting as the agent or attorney of the alien, or the alien himself, for doing an act forbidden by law, when he can be reached by the process of our courts of justice. In the act which the committee have deemed proper to report to the Senate, they have incorporated a provision declaring substantially, that no rent or service shall be collected or enforced from the tenant, saving, however, the rights and interest of the grantee or lessee, under the grant or lease. This seems to be in accordance with the intent and meaning of the Legislature, in passing the several acts which have been examined by the committee. The section which proposes to revoke and annul the power granted to Edward Ellice by the act of 1822, of taking and holding real estate, may perhaps by some be considered as unconstitutional, in reference to the constitution of the United States, which provides that no state shall pass a law impairing the obligation of contracts. It is not every grant of power by the Legislative authority which has the form of a contract, and we do not propose to divest the individual of any right to the lands acquired under the act, or to restrain him from aliening the same in fee, and for this purpose we would allow him to exercise all such acts of ownership over them as a citizen may. From the best consideration we have been able to give this subject, we incline to the opinion that this provision is constitutional; and if so, then it commends it-

self to the favorable consideration of the Senate by the strongest considerations of policy and expediency.

Without discussing more at large the details of the bill proposed, at this time, the committee would remark, that after the previous part of this report had been prepared, they were furnished with a reference to the various acts of the Legislature, and to the treaty of amity, &c., concluded between the United States and Great Britain, under which Edward Ellice claims to hold real estate within this State. By the first section of an act passed April 9th, 1792, Alexander Ellice, alleged to be the ancestor of the said Edward Ellice, was authorised to take and hold lands, tenements and hereditaments, by purchase or descent, to have and to hold the same, to him, his heirs and assigns forever, as fully to all intents and purposes, as a natural born citizen might or could. The second section provides that no lands, &c., theretofore purchased by said Alexander Ellice, shall escheat by reason of his alienage, but should vest in the purchaser in the same manner as if he had been naturalised at the time of the purchase. By the 9th article of the treaty of amity, commerce, &c., concluded between the United States and the King of Great Britain, and signed the 19th day of November, 1794, commonly called Mr. Jay's treaty, it was agreed that British subjects who then held lands in the *territories of the United States*, and American citizens who then held lands in the *dominions* of his majesty, should continue to hold them according to the nature and tenor of their respective estates and titles therein; and might grant, sell or devise the same to whom they pleased, in like manner as if they were natives; and that neither they nor their heirs or assigns should, in respect to the said lands, and the legal remedies incident thereto, be regarded as aliens. This article was made perpetual by the stipulations of the treaty.

In regard to the provisions of this article, the committee would submit these questions:—Have the Congress of the United States under the constitution, the power to pass a law authorising and empowering an alien to purchase, take, hold and convey real estate within the territorial limits and legislative jurisdiction of one of the individual states? Had the treaty-making power any authority, under the constitution, to make and enter into a stipulation, which would be binding upon the several states—granting such powers to an alien, relative to real estate, within the limits and jurisdiction aforesaid? Do the provisions of this article of the treaty apply to

lands held in the territories *belonging to* the United States, or do they extend to lands held in the individual states?

But in reference of the act of 1792, it will be perceived, that although it authorises the alien, his heirs and assigns, to hold the lands purchased under it, as a natural born citizen might, still, no authority is conferred upon such heirs and assigns, to sell and convey to aliens, so as to defeat the state or prevent an escheat, should a conveyance thereof be made to one not authorised to take and hold lands within this state.

And in reference both to the provisions of the said act and the article of the treaty, the committee suggest, that no matter what may have been the rights, powers and immunities thereby granted or conferred, Edward Ellice cannot now insist that he is protected in violating the provisions of the act of 1817, either by the provisions of the act of 1792 or the stipulations in the treaty.

The act of 1817 was passed at his request, and upon his petition. If his rights were affected by it, and his power circumscribed, he must be deemed as consenting to it, and will not be permitted to set up an avoidance of the restrictive clause, while he claims to hold under conveyances made in pursuance of that act. The bill proposed by the committee is herewith reported to the Senate.

N. S. BENTON,
Chairman.

No. 36.

IN SENATE.

February 22, 1831.

REPORT

Of the Committee on Banks and Insurance Companies on a resolution of the Senate, relative to giving the Comptroller enlarged powers in relation to the Bank Fund.

Mr. Allen, from the committee on banks and insurance companies, in obedience to a resolution of the Senate, instructing them "to inquire into the expediency of giving to the Comptroller enlarged powers in relation to the investment of the Bank Fund,"

REPORTED AS FOLLOWS:

That the following abstract from the Treasurer's books furnished the committee by the Comptroller, will show the amount paid to the Bank Fund up to the present date.

STATE OF NEW-YORK, } COMPTROLLER'S OFFICE. }

Statement, showing the amount paid into the treasury on account of the Bank Fund for the year 1830, as follows:

1830.

December 20, Jefferson County Bank,.....	\$400 00
27, Livingston County Bank,.....	166 67
28, Ontario Bank,.....	2,500 00
31, Hudson River Bank,.....	116 44
" Bank of Monroe,	1,333 33
" Mechanics' and Farmers' Bank,.....	2,138 18
" Bank of Auburn,	1,000 00

Carried forward,.....\$

[S. No. 36.]

		Brought forward,	\$	
December 31,		Cañal Bank, Albany,	1,333	33
	"	Otsego County Bank,	72	63
	"	Bank of Utica,	2,500	00
1831.				
January	1,	Bank of Ithaca,	791	67
	4,	Ogdensburgh Bank,	437	00
	"	Onondaga County Bank,	187	50
	"	Catskill Bank,	636	66
	"	Bank of Newburgh,	616	67
	"	Merchants' and Mechanics' Bank,	1,312	50
	"	New-York State Bank,	1,682	94
	"	Bank of Albany,	1,200	00
	"	Bank of Genesee,	395	83
	"	Bank of Poughkeepsie,	70	82
	"	Wayne County Bank,	350	68
	7,	Lockport Bank,	443	06
	"	Bank of Troy,	1,943	34
	"	Farmers' Bank of Troy,	1,390	00
	8,	Bank of Chenango,	600	00
	"	Saratoga County Bank,	41	67
	"	Mohawk Bank,	825	00
	14,	Bank of Geneva,	2,000	00
	15,	Central Bank, Cherry-Valley,	497	75
			\$26,983	67

SILAS WRIGHT, JR.

The Hon. STEPHEN ALLEN.

Albany, 18th February, 1831.

Making a total of *twenty-six thousand nine hundred eighty-three dollars* and sixty-seven cents.

The aggregate capital of the twenty-nine banks, now subject to the annual payment of the half of one per cent on said capital, is \$6,294,600.

By the "act to create a fund for the benefit of certain monied corporations, and for other purposes," it is made the duty of the Comptroller, from time to time, to invest all the monies of said fund, in the manner provided by law, in respect to the common school fund.

The securities in which he may invest this money, therefore, (see vol. 1st, Revised Statutes, 196,) are the public stocks of this State; of the United States, or of the cities of New-York and Albany. These stocks are not to be had, except at a premium of two or three years interest on the capital invested; and the Comptroller deeming such a disposition of the fund, incompatible with the interests of the banks, has preferred letting it remain unemployed in the treasury, in the hope, that a more favorable state of the money market might occur, and enable him to invest, with a better prospect of income than at present. This, however, in the opinion of the committee, is at least problematical, as many of the securities alluded to, are annually diminishing in amount, by the payments made on the principal, while much of what remains are in the hands of those who hold them for income only, and rarely, if ever, offer them for sale. The prospect of investing in the stocks now authorised, therefore, is at least uncertain, if not impracticable.

If the investment of this, comparatively small sum, cannot be made with any prospect of income, the inconvenience and loss must be greatly increased, when the New-York banks, lately re-chartered, shall commence their payments to the fund. There are eight of the old banks whose charters have been renewed, and three that were chartered by the Legislature of 1830, and who have commenced their operations since the first of January last. The aggregate capital of these eleven banks, is about *ten million of dollars*, and their annual payments to the fund will, consequently, amount to *fifty thousand dollars*; there will be in the treasury, therefore, in the month of January next, except what may be drawn from it for expenses, rising *one hundred thousand dollars*, viz: the sum now paid in, amounting to \$26,983.67, together with the half of one per cent on \$16,215,800, the capitals of the forty banks that now are, including those that shortly will be, subject to the fund law. The annual payments on this amount of capital will be \$81,079, and will make the aggregate amount in the treasury, in January next, \$108,062.67.

This large sum, from present appearances, will have to lay unemployed in the treasury of the state; and, for aught the committee can see, the future payments to the fund, which in a few years will be increased to a large and important amount, must share the same fate, unless some measures shall be adopted to enlarge the present

power of the Comptroller, in order that a ~~safe~~ and profitable investment may be made, in other securities than those now authorised.

The seventh section of the act to create a fund, &c. provides, that the income arising from said fund, after deducting thereout the salaries of the Bank Commissioners, shall annually be paid by the Comptroller to the several corporations by which the said fund shall be created. This provision of the act was introduced as a substitute for the 22d section of the bill, as originally reported by the committee of the Assembly, and which wholly exempted from taxation, as an incorporated company under the laws of this state, every bank subject to the provisions of the act.

The annual return of the income to be derived from the fund, in lieu of the exemption from taxation, as the committee are advised was well understood at the time, as an adjustment of conflicting opinions, and was advocated on the ground that the receipt of the interest, would in some measure, compensate for the sum to be paid in taxes; but, if the money is to remain thus uninvested, and no income to be derived to the several institutions who created the fund, the advantages anticipated from the substitute will be completely frustrated and destroyed.

The banks who have entered into this compact, and received their charters under its provisions, have a right to expect that the capital they have contributed shall not be deteriorated or injured, and that it should be so managed, as not only to produce an income that will pay the expense incident to its administration, but leave a considerable balance to be annually returned to the institutions. The words of the act fully warrant these anticipations—viz: "The income arising from said fund, after deducting thereout the salaries of the Bank Commissioners, shall annually be paid by the Comptroller to the several corporations by which the said fund shall be created. Instead of this, however, there has been \$4,148.99 of the capital withdrawn, and paid to the Bank Commissioners, as salary to the 1st of January last; thus reducing the sum in the treasury to \$22,834.68. May it not be a question hereafter, whether, under the provisions of the act, the Comptroller can legally pay, *from the principal of that fund*, the expenses thus incurred?

This whole subject must be of considerable importance to the institutions interested in the money composing this fund; and particularly to those who are compelled to divide to their stockholders

less than the legal rate of interest *per annum*. And in proportion as the fund increases in magnitude, and the value of the income that may be derived from it is enhanced, the importance of a profitable investment will, in the same proportion, be augmented.

The committee think, from the view they have taken of the subject, that the banks have a claim upon the Legislature for such precautionary measures, as may enable the Comptroller, to invest this money in other securities than those now authorised; and in accordance with the best of their judgment such authority may safely be extended to an investment in bonds and mortgages on real estate, under proper restrictions.

The committee propose, therefore, that the Comptroller be authorised to invest the "Bank Fund" in bonds and mortgages on real estate of at least double the value of the amount loaned. That all buildings be kept insured by the mortgagor during the continuance of the loan, and the policy held by the Comptroller as collateral security for the same. That no such loan be made until the property shall be examined by the Bank Commissioners, and their certificate, approving of the same, be lodged with the Comptroller. That if at any time such property shall be reduced in value, from any cause whatever, additional security be demanded, and on failure to give such security, the mortgage to be forthwith foreclosed.

The additional duty that will be required of the Commissioners, in examining the property offered as security for loans from the fund, has induced the committee to add a section to the bill, raising their salary from fifteen hundred to two thousand dollars.

The committee have prepared a bill, carrying out the aforesaid principles, and have instructed their chairman to introduce the same.

IN SENATE.

February 26, 1831.

MEMORIAL,

Of the general, field and staff officers of the third division of New-York State Infantry, against the bills now pending before both Houses of the Legislature, to reduce the parades of the militia.

To the Hon. the Senate and Assembly of the State of New-York.

The memorial of the undersigned, general, field and staff officers of the 3d division New-York State Infantry,

RESPECTFULLY SHEWS :

That they have observed with solicitude, the introduction into the Legislature of bills proposing such modifications of the laws regulating the militia of the State, as must, in their opinion, very greatly impair its respectability and efficiency, if they do not end in the virtual prostration of the entire system ; a system on which, in times of past peril, we have safely relied, and which has contributed largely to the national honor.

In all countries defended by standing armies, the defeat of the army has been the defeat of the nation ; whereas with us, the militia have been found adequate to the constant defence and establishment of popular rights, from the battle of Bunker's Hill to that of New-Orleans. It is the only system which can constitute at once the greatest national power, the surest preservative of internal peace and of general liberty, without being in any degree hostile to either. These are its peculiar objects and effects, and such has been its character for two centuries. Surely, an institution so es-

essential to the existence of republican liberty, should be neither degraded nor neglected.

It has been with surprise, as well as alarm, that we have observed the hostility which has been excited against the militia system. The right to bear arms was one of the boasted rights of English freemen ; but while in the land of its origin it has withered into a mere nominal privilege, it has, by their descendants, been reduced to substantial practice, and has exhibited to the world the solitary instance, (until the splendid imitation by France, within the past year,) of a nation reposing its independence and liberty upon citizens, every one of whom was a soldier : on an army, every soldier of which was a citizen. This characteristic institution of the United States has been carefully supported by the constitutions of the nation and of the State governments. It is declared in the constitution of the United States, to be "*necessary to the security of a free State ;*" an important part of the constitution of the State of New-York is directed to its regulation ; and the labors of Congress, and of the State Legislatures, have been, in many successive years, devoted to its improvement and perfection.

It is confidently believed, that the wisdom of the Legislature will not allow a system, thus venerable by age, and which in the hour of trial has been found sufficient and indispensable, to be impaired, without greater inducements than are known to your memorialists.

No government can exist without a military force, and in none whatever is the burden for its support so light as in this. Its moral effect upon the national character has hitherto been most salutary, producing habits of subordination to the laws, a love of order, confidence in the public strength, and sentiments of earnest patriotism. The people are as emphatically the defenders as they are the makers of the laws : the military power of the country is retained in their hands by means of the elective system, as to officers, and, their interests being the same, there is no possibility of this power being wielded against the common welfare. Mercenary troops yield allegiance and devotion to their immediate rulers, whose will, and not that of the people, is their only law.

It has been the constant policy of our government, to be at all times prepared for war, and the present convulsed state of the world, would scarcely point *this* out as a suitable time for enfeebling the

national defence. It may, perhaps, be doubtful, if all the world were at peace, whether it would be wise to assume such a period as that upon which to base permanent acts of legislation, on subjects of this nature. Revolutions, invasions, and insurrections, have often been, and may again be sudden, fierce and unexpected, and this government has been, and may again be, compelled to call upon the militia to suppress tumults threatening the public safety.

The present system of drills, inspection and parades, it is believed, is important in rendering the militia sufficient for the duties which may, at all times, be demanded of them. It does not, it is true, qualify them for the full duties of regular soldiers; but such is not their object: it is not requisite that they should have the full and exact discipline required of that class of troops—it is necessary for them to possess, at all times, the *elements* of good soldiers, obedience, discipline, and a tolerable acquaintance with the movements of companies, battalions, regiments and brigades. This degree of knowledge qualifies them for the performance of such sudden duties as may be required of them, and further proficiency would result from increased practice when in service.

The objection, so often made, to the present system of parades, that it does not make good soldiers, is always made by what we deem an improper comparison with regular soldiers. Their objects and duties are, as we have already remarked, widely different, and such comparisons are consequently of no weight. That which would be a necessary proficiency in the one case would not be so in the other.

But while it is freely admitted that regular soldiers must, from the different constitution of the two services, be superior to those of the militia in exactness and extent of discipline, your memorialists trust it will not be unbecoming in them to assert, that a decided improvement has been made, of late years, in military knowledge, by the militia corps of the city of New-York. In the midst of various obstacles, and uncheered by public approbation, the officers of the militia have followed, with unremitting perseverance and assiduity, the duties of their stations. Every year a visible degree of improvement has been perceptible, and it is confidently believed, that should occasion demand it, a degree of skill in the duties of the soldier would be exhibited, efficient and honorable in the service of the country.

We regard it as all important that the system of militia duty should be so established as to secure the services of active and competent officers ; that the citizen should know his officers, understand the outline of his duty as a soldier, and feel aware of his liability at all times to be called into service. Reciprocal acquaintance and regard between them will produce a mutual reliance of the utmost importance.

A serious evil would, we apprehend, result from any further diminution of the duties of the militia, in the prostration of the uniform corps which now do honor to the State and country. The exemptions which they now enjoy are only sufficient to sustain their numbers. If they, too, should be destroyed the arm of civil authority would be greatly enfeebled, to say nothing of the diminished force for public defence.

Much complaint has been made, though so far as our observation extends, without any adequate cause, of the corruption of morals and excesses consequent upon public parades. Few collections of our fellow-citizens are more orderly, decent, or attended with less intemperance or other excess, than are the parades of the troops of this division ; and if such fault can be justly imputed to the militia of other parts of the State, it can scarcely operate as a controlling objection to a system so all-important to the public dignity and safety. The same argument would apply with equal, if not greater force, to every town meeting, election, sessions of courts, or other occasion, assembling citizens in considerable numbers.

If, as is urged, the existing system is inadequate to the perfection of the militia as soldiers, any further reduction of the drills and parades must entirely destroy their efficiency. Their organization will fail, arms and equipments be neglected, and officers of respectability will neither incur the trouble, expense, nor mortification of burlesque reviews and parades.

There is, we believe, no country in the world whose military establishment imposes so light a burden on its citizens as the United States ; and very few of the States in which an equal or greater degree of personal service is not required than in New-York. In many, the militia are not only more frequently paraded, but are required to equip themselves in uniforms, and the consequence is, a high state of military discipline, pride in the service, and ambition to excel, and for promotion.

So far as concerns the city of New-York, we would simply allude without going into details, to the very great confusion which would result to our municipal regulations from any material change in the militia system. The reciprocal reference which many of our laws have to one another, and to this, is well known to the Legislature, and we believe that the confusion which would result from such change could not be otherwise than detrimental. It is even now impossible to maintain by the present exemptions the full number of firemen required by the necessities of the city.

We would further suggest to your Honorable Bodies, that the loud objections made to the militia system, and the complaints as to its hardships proceed, so far as we can judge, from that class of the community who do not and will not perform the duties required by the laws, and who regard the penalty of their neglect as an undeserved burden. It is from this source that the most constant attempts are made to render the service odious and ridiculous; to repress the order of those who are willing and desirous to perform their duty, and to excite public contempt towards an institution so indispensable to the national safety and honor. The sacrifice of time necessary to a compliance with this obligation is no more than every good citizen should be willing to render, and we earnestly hope that those who refuse performance of their duties, may not succeed by unworthy clamor, in degrading a service which should be honored.

As to the burdens of the militia system, the complaint is generally made of the *fine*, not of the *duty*. The annual *tax* is the theme of reproach, not the annual labor. Those who comply with their duty, generally do it willingly; those who regard its performance as beneath them, are, while they despise the duty, unwilling to pay the penalty of its neglect.

Your memorialists respectfully submit these remarks in the full belief that the importance of a militia system, and of some military knowledge in the militia will not be questioned. If the experience of every age and of every nation, and even of our own country during its brief existence, are entitled to weight on this subject, your memorialists are not apprehensive that in creating laws which are to affect the present generation and posterity, any controlling influence will be exercised by Utopian ideas of the future peace of the world, or of the entire freedom of our own land from those difficulties and con-

vulsions which have always attended dense population and conflicting interests and passions.

AUGUSTUS HEMING,
Maj. Gen. 3d Div. N. Y. State Infantry.
 GEORGE S. DOUGHTY,
Brig. Gen. 10th Brig. of Infantry.
 JAMES I. JONES,
Brig. Gen. 59th Brigade of Infantry.
 H. T. KIERSTED,
Col. 75th Reg't Infantry.
 FRED. PENTS,
Col. 222d Reg't Infantry.
 MATTHEW KEELER,
Col. 106th Reg't Infantry.
 WM. GEIB,
Col. 85th Reg't Infantry.
 BENJ. MORSE,
Inspector 3d Div'n Infantry.
 WM. SIMPSON,
Col. 115th Reg't Infantry.
 DANIEL LEE,
Col. 223d Reg't Infantry.
 JAMES S. HUGGINS,
Div'n Judge-Advocate 3d Div'n.
 GEO. DIXEY,
Lt. Colonel 75th Reg't.
 JOHN H. CORNELL,
Lt. Colonel 106th Reg't.
 W. P. HAWES,
Lt. Colonel 222d Reg't.
 C. W. TIMPSON,
Lt. Colonel 115th Reg't.
 J. R. LIVINGSTON, JR.
A. D. C. 3d Div'n Infantry.
 WILLIAM KENT,
Judge-Advocate of 10th Brigade.
 S. JONES MUMFORD,
Inspector 10th Brigade.
 J. D. BANN,
Maj. Sep. Batt. Lt. Infantry.
 BENJ. D. SILLIMAN,
Judge-Advocate 59th Brig. Infantry.

H. VAN ORDEN, JR.

Major 85th Reg't.

MAJOR BEILBY,

Major 222d Reg't.

RICH'D A. STRIKER,

Major 75th Reg't.

PETER R. BRINCKERHOFF,

Act. Brig. Major 59th Reg't.

RUFUS PRIME,

Div'n Paymaster 3d Div'n Infantry.

GEORGE DECKER,

Lt. Col. 223d Reg't Infantry.

HENRY HONE,

A. D. C. 3d Division.

DAVID HUSTACE,

Major 106th Reg't

IN SENATE,

March 2, 1831.

REPORT

Of the committee on Banks and Insurance Companies, on the several engrossed bills from the Assembly.

Mr. Allen, from the committee on banks and insurance companies, to whom was referred the several engrossed bills from the Assembly, to incorporate the Tanners' bank, with a capital of

\$100,000 00

The Bank of Buffalo,.....	200,000 00
Yates County bank,.....	100,000 00
Madison County bank,.....	100,500 00
Montgomery County bank,.....	100,000 00
Ulster County bank.	100,000 00

REPORTED AS FOLLOWS, TO WIT:

That they have carefully examined said bills, and have found the restrictions and powers of the several corporations correctly designated and defined, and that only one of said bills, as the committee believe, will require some verbal amendments.

The local knowledge of the committee, relative to the certainty of a prompt investment in the capital stock of these institutions, and the sufficiency of trade and business at the place of location, for their support, are so limited, that they have concluded to submit the bills to the Senate, free of any opinion or preference on their part, as to the propriety and utility of the several applications, or of their places of location.

The committee presume, however, that the representatives of the particular districts in which the banks are to conduct their operations, are in possession of the necessary facts and information upon which to found a correct opinion as to the propriety and expediency of granting the corporate powers requested; and they wish it to be distinctly understood therefore, that their votes individually, will depend much upon the strength of such facts and information, together with the opinion of those who are better informed relative to the ability of consolidating capital, and supporting a banking institution at the place of location, than, under the circumstances of the case, the committee can be.

No. 45.

IN SENATE,

March 3, 1831.

REPORT

**Of the Commissioners for draining the Cayuga
marshes.**

**TO THE HONORABLE THE LEGISLATURE OF THE
STATE OF NEW-YORK.**

**The Commissioners for draining the Cayuga marshes, respectfully
report as follows :**

Since the report made by the Commissioners to the last Legislature, there has been no prosecution of the works under their direction. This suspension of operations has been owing partly to the smallness of the amount of unexpended funds, which forbade any considerable undertaking; and partly to the great height of the waters the last season, which would have rendered any operation unusually expensive.

The whole amount heretofore appropriated by the Legislature for the prosecution of the works, is one hundred thousand dollars. Of that sum there remains unexpended, and now in the hands of the Treasurer, subject to our order, about two thousand dollars; (some debts having been paid since the last annual report,) that sum must necessarily be lessened by the payment of some claims not yet liquidated. The undersigned will use their utmost endeavors to bring to a speedy adjustment and final settlement all unliquidated claims.

✓ The condition of the works is fully set forth in the annual report of the Commissioners, made last winter. Much has been done; and we think that the very favorable results produced prove, beyond a reasonable doubt, that the great objects in view can be fully ac-

complished by an expenditure not exceeding the amount which David Thomas, acting as the State's engineer, before the commencement of our operations, estimated as the sum of necessary expenses. The works have been carried on under the direction of that experienced and able engineer; and we are happy in being able to quote his testimony given before the Comptroller in July last:—"Witness knows about the amount expended for draining these marshes, and understands it to be between ninety-eight and ninety-nine thousand dollars; and more has been done than he expected would be done with that amount of money."

To shew our opinion, as well as that of Mr. Thomas, as to what is necessary hereafter to be done, we repeat a part of the last annual report:—"A large bar, forming a very serious obstruction in the river, lies opposite the Cayuga marshes, between Bluff Point and Montezuma. A proper channel cut through this bar, must necessarily and very considerably lower the water in the rivers along the greater extent of the marshes, to Martin's rapids."

"It will be necessary to excavate a channel at Martin's rapids, which will sink the waters of Seneca river as far as to the foot of Cayuga lake."

"Some excavation must also be made at the foot of the lake. And it will be proper and necessary to enlarge, in some degree, the channels at Jack's reefs, and at some places between the reefs and Montezuma."

We ought specially to remark, that no channel has yet been cut, and no bar removed, farther up the river than Bluff Point. There our operations ceased, three miles below Montezuma, and entirely below the great body of the open marshes, which extend along the river from Bluff Point to the lake, a distance of ten miles. To give effectual relief to the open marshes, it will be absolutely necessary to remove the bars lying opposite to them.

We believe that the completion of these works, which we have stated as necessary to be done, would reclaim the drowned lands lying in different parts of the valley of the Seneca river, from the foot of the Cayuga lake to Jack's reefs, a distance of about twenty-six miles. And there can be no doubt that if these lands were drained, they would become highly productive and valuable; and the adjacent country, which has been heretofore extremely sickly, would be rendered far more healthy and flourishing.

We annex a letter which we have received from many of the principal owners of the said drowned lands, expressing their desire that a further appropriation of twenty-five thousand dollars may be granted, to enable us to complete the works. We declare our decided opinion, that the expenditure of that sum would finish the necessary operations; which would not only prove highly beneficial to the landholders, but would promote the interests of the State, by affording full security for the repayment of the monies advanced.

JOHN JAKWAY,
N. GARROW,
LORING WILLARD.

February 22, 1831.

It is proper that the undersigned should inform the Legislature, that he and Mr. Garrow entered upon the duties of their office on the 22d day of February last; and that in the opinion of the Commissioners, the principal and most expensive operation, called the deep cut, will be in danger of being filled up and rendered useless by the sliding in of its banks, unless this Legislature shall make an early appropriation for prosecuting the works.

LORING WILLARD.

Albany, March 3, 1831.

DOCUMENT.

*To John Jakway, Nathaniel Garrow and Loring Willard, Esqs.
Commissioners for draining the Cayuga Marshes.*

GENTLEMEN—

We are aware that the funds heretofore appropriated by the Legislature for the prosecution of the works now under your direction, are nearly exhausted, and are insufficient to complete the contemplated improvements. We understand that the whole amount already advanced by the State is one hundred thousand dollars. On reading the report made to the Legislature in the winter of 1825, by David Thomas, then acting as engineer for the State, we find that he stated, as the result of his examinations and calculations, that it would require one hundred and twenty-five thousand dollars to finish the works. As persons interested in the lands to be affected by your operations, we do not wish for an appropriation beyond the amount named by Mr. Thomas. Twenty-five thousand dollars more would make up that amount, and would, as we confidently believe, enable you to attain the great objects in view, namely, the draining and reclamation of the drowned lands in the valley of the Seneca river, and the improvement of the health of the adjacent country. We, therefore, earnestly desire you to apply to the present Legislature for a further appropriation of twenty-five thousand dollars. Should a less sum be found sufficient to complete the necessary operations, the surplus would remain unexpended, and be returned to the treasury of the State.

We are, with great respect,
Your friends and obedient servants.

Humphrey Howland,
Henry Leonard,
Jeremiah Foote,
Henry Crane,
John W. Hulbert,

Amos Underwood,
George W. Fitch,
R. L. Smith,
Thos. J. Alsop,
Jacob L. Larzelere.

February 17, 1831.

No. 46.

IN SENATE,

March 3, 1831.

REPORT

**Of the Comptroller, in obedience to a resolution of
the Honorable the Senate, of the 16th ultimo.**

**COMPTROLLER'S OFFICE. }
Albany, 3d March, 1831. }**

**The Hon. EDWARD P. LIVINGSTON,
*President of the Senate.***

SIR—

Herewith I have the honor to transmit a report upon the petition of Joseph Rhoades, Samuel Rhoades, John Stort, and George Stort, referred to me by the Honorable the Senate, on the 16th ultimo.

**I am, with great respect,
Your very obedient serv't.**

SILAS WRIGHT, Jr.

REPORT.

STATE OF NEW-YORK, }
Comptroller's Office. }

The Comptroller, to whom has been referred by the Honorable the Senate, the petition of Joseph Rhoades, Samuel Rhoades, John Stort, and George Stort, respectfully submits the following

REPORT:

Lot No. 75, in the township of Lysander, in the county of Onondaga, or some part of it, has been returned to this office, charged with taxes, nearly every year since returns of taxes upon non-resident lands have been made to this office at all. The history of these returns of this lot, and of the different parts of it, of the payments of taxes made upon the lot, either in the county or at the treasury, and of the sales for arrears of taxes which have been made out of it, will be almost indispensably necessary to a proper understanding of the claims of the petitioners.

The first return of this lot, found upon the books of this office, was for the year 1801, and for that and the following years of 1802, 1803, and 1804, the return was of the whole lot, and the quantity of land specified in the return as contained in the lot, was 600 acres. In the return for each of these years, 100 acres, in the south-east corner, was excepted from assessment, and, as is supposed, because that piece comprised what, in the military lots, has been known by "the denomination of the State's hundred acres;" which, being public property, was exempt from taxation. For those years the taxes were paid at this office by D. Earl, upon 100 acres; by Robert Earl, upon 200 acres, in the northwest corner of the lot; and by Daniel Burrows, upon 28 acres; making the whole number of acres upon which payments were made, 328, and the whole number discharged from liability for taxes, including the State's 100 acres exempt, 428, and leaving charged with taxes, and liable to be sold, 172 acres. The 100 acres paid by D. Earl, is not designated upon the books, and cannot therefore be specified, unless future payments upon the same interest, may serve to indicate the application intended.

For the years 1805, 1806, and 1807, this lot is not found upon the tax books, or is found so imperfectly described, and with the parts paid so undefined, that it was never carried on to the sales book, and no sale for any part of the taxes of those years has ever taken place.

For the year 1808, the return was of the north part, 300 acres, being just half of the lot as originally returned. Of the taxes charged upon these 300 acres, Robert Earl paid the proportion upon 200 acres, N. W. and Daniel Burrows, paid upon the same 28 acres upon which he had paid for the former years mentioned. Payments, therefore, were made upon 228 of the 300 acres returned, and 72 acres only were left chargeable for that year.

For the year 1809, the return was of the north part, 500 acres, and the payments of the tax of that year were, by Robert Earl, upon 200 acres N. W.; by Wm. S. Vredenburg, upon 100 acres S. E.; and by Daniel Burrows, upon his 28 acres; making the payments cover 328 acres of the quantity of land returned, and leaving 172 acres charged with their proportion of the tax of that year.

The return in 1810, was of the whole lot, except the 100 acres S. E., and specifying the remainder to be 500 acres. The payments towards the tax of this year were, by Robert Earl, upon 200 acres N. W., and by Daniel Burrows, upon the same piece of 28 acres, making the whole payments upon but 228 of the 500 acres returned, and leaving charged for that year 272 acres.

The return for 1811, was of the north and west parts, 302 acres, and the whole of the tax of that year was paid by N. H. Earl. No part of the lot was returned for the tax of 1812.

In 1815, the first sale in the county of Onondaga took place, for taxes assessed by the State, and the sales book was intended to embrace all the arrears of taxes from the time of the first returns to this office, up to and including the tax of 1812. On the 14th day of November, 1815, the sale for the arrears of taxes due and unpaid upon this lot was made. The arrears were upon 172 acres for the years 1801, 1802, 1803, and 1804, upon 72 acres for 1806, upon 172 acres for 1809, and upon 272 acres for 1810, and the whole amount, including interest and charges, was \$21.60. For this sum, 21 acres, to be laid out as nearly in a square form as might be, in the N. E. corner of the lot, saving the 28 acres upon which payments had been

made by Daniel Burrows, were sold to Jonas C. Baldwin, and not having been redeemed, were conveyed to him by the Comptroller on the 24th day of December, 1817.

For the year 1813, the S. E. 100 acres of this lot only were returned, upon which the tax was afterwards paid by Walter Wood.

The tax of 1814, seems to have been rejected in consequence of some error in the description, but was returned again with the tax of 1815, when the following minute description, applicable to the taxes of both years was made, to wit:

“Whole lot, except 137 acres and 24 perches, bounded as follows: Beginning at the S. W. corner of the lot and running thence east on the S. line to the S. W. corner of the State's 100 acres, thence north on the north [should be west] line of the State's 100 acres, so far as to contain 100 acres, thence west to the west line of the said lot, and thence south to the place of beginning; and a resident piece, beginning at the N. E. corner of the said lot and running thence south 27 chains and 87 links, thence west 13 chains and 33 links, thence north 27 chains and 87 links, and thence east 13 chains and 33 links to the place of beginning, containing 37 acres and 24 perches, and leaving 383 acres non-resident, which is the whole the said lot contains, after deducting as before the 137 acres and 24 perches.” The return for 1816, was in all respects the same as in 1815; of this quantity thus returned as non-resident, and charged with the taxes of the years 1814, 1815, and 1816, Daniel Kellogg paid a part in the N. W. corner of the lot, described as follows: “Beginning at the N. W. corner of the lot, and running thence east 51 chains and 62 links, thence south 11 chains and 25 links, thence west 8 chains and 35 links, thence south 29 chains and 62 links, thence west 43 chains and 37 links to the west line of the lot, and thence N. 40 chains and 87 links to the place of beginning, containing 188 acres of land,” and Walter Wood paid the proportion of the tax upon the southeast 100 acres. The whole quantity returned as non-resident, as seen above, was 383 acres, and the two payments above mentioned covered 288 acres of the quantity, leaving 95 acres charged with their proportion of the tax for the three years mentioned.

The next sale of lands for arrears of taxes took place in 1821, and the sales book was intended to include all the arrears of taxes from the year 1813 to 1816, both years being inclusive. On the 23d day of February, 1821, the sale for the arrears standing against this lot

was made. These arrears were the proportion of the tax upon the 95 acres, above mentioned, for the years 1814, 1815, 1816, and the amount, interest and charges being added, was \$19.75. Jonas C. Baldwin again became the purchaser, and 16 acres of the lot, to be laid out upon the east line, and adjoining to the S. E. or State's 100 acres, were sold to him for the amount due. The time of redemption expired, and this piece also of this lot was conveyed to him by the Comptroller.

It should be particularly remembered that it was under this deed that the defendants in the suits mentioned in the papers referred claimed title, and that it was the validity of the title acquired by virtue of this deed which was contested by the plaintiffs. Verdicts in the suits passed against the defendants, and they claim that the Legislature should indemnify them for the costs to which they have been put, in attempting to defend themselves by virtue of the tax deed, while the plaintiffs claim, that the verdicts they have recovered against the defendants, together with their judgments for double costs, should be paid to them by the State. The subject is one of very grave importance, and will require the most attentive examination by the Legislature, before the principle shall be adopted that the deeds given by the Comptroller for lands sold for arrears of taxes, and not redeemed, are to subject the State to any liabilities beyond those expressed in the tax law. It is believed the claim is now for the first time made, and it extends not only to the payment of the consideration money and interest received by the State for the land, but to the payment to both the parties litigant of all their costs, to the payment of the double costs of the plaintiffs adjudged by way of amercement upon the defendants in consequence of their conviction as trespassers, and to the payment to the plaintiffs of the verdicts they have recovered, by way of damages, for the trespasses committed. Such is the claim now presented to the Legislature.

It is presumed that little need be said to show the impropriety and iniquity of that part of the claim which consists of the verdicts for damages and the double costs. The State surely can in no sense have any thing to do by the way of compensation, whatever may be its liabilities; with any other persons but its grantees and their assigns; and therefore, the plaintiffs in these suits, as claimants upon the State, must expect to have their claims adjudged by the legal rights of the defendants as representing the grantee of the state. In this relation it is proper that they should ask the State, in case

any thing is to be allowed on the behalf of the defendants towards the judgments which the plaintiffs have recovered against them, that it should be allowed and paid directly to themselves, instead of coming to them through the hands of the defendants. In this sense, but in no other can they be considered as entitled to ask any thing from the State. But the claim of the defendants, as all the petitioners represent it, and in the strongest light they attempt to put the case, is merely the claim of the grantee in a deed with warranty against his grantor. That claim will not surely be pretended to go further than a liability to refund the purchase money and the interest, and to pay the costs of defending the possession and the title; and the latter liability is by no means admitted, except for the sake of the present argument.

But suppose the claim of the grantee against the grantor to possess this extent, will it be pretended, if the grantee does acts which render him liable to verdicts for damages, that the grantor is to pay them also? That if the grantee cuts and carries away the timber from the premises, the grantor is to pay for the injury, while the grantee pockets the avails of his trespasses? In other words, as the claim is between the grantor and grantee, and them only, is the grantor to be held liable to pay the grantee for property which he had himself taken for his own benefit? If not, then surely the defendants in these suits have no claim upon the State for the timber which they cut and carried off from this land and disposed of as they chose, and the defendants having no claim, the plaintiffs in the suits can have none against the State, as they can only claim through the rights of the defendants. This view of the case must dispose of all pretence that the State should pay the verdicts rendered for the timber taken and carried away.

How then will the claim for double costs stand? The grantees of the State have chosen to try their title to the land conveyed, incidentally and not directly. They did not bring ejectment to obtain the possession, and thus make the question of title the direct point in issue, but they prefer to enter upon the land, take from it the timber, and subject themselves to suits in trespass from the opposite claimants. These suits being instituted, they interpose their plea of title, and thus take the hazard of being amerced in double costs, if they fail. Would the grantor, upon the supposition of a liability to pay the costs of the eviction, be subject to this amercement? The double costs proceed from the trespass, for which we

have seen he could not be liable; and if not liable for the act, could he be liable for the consequences which the statute has imposed upon it? If not liable for the damages occasioned by the trespass, could he be liable for the penalty affixed to the trespass? These double costs were not necessary to the trial of the title; nor had the law made them the consequence of its failure. They have accrued in consequence of the mode in which the grantees chose to try their title, and not from any necessity connected with the question of title itself. Nothing, therefore, express or implied, arising from an ordinary conveyance of title with warranty, can impose an obligation upon the grantor to pay them.

These considerations must dispose of all that part of the claim of any of the petitioners which consists of verdicts for damages, or of the double costs. The claim will then stand as a simple question of liability between the grantor and his grantee, when the title has failed. In this view of it the Comptroller declines to examine the point, whether the grantor is liable consequentially and without express covenants to pay the costs of trying the title by process of law, and in the usual mode, because he believes this point will not be material to the determination of the rights of the petitioners, whatever should be the rule of law, as between individuals. He will merely say, that the determination between such parties would be derived from the settled principles of the common law, as expounded by the courts in adjudged cases, and that he understands it to be a point, not as yet placed beyond controversy, by judicial decisions. The rule, however, which governs the liability of the State to its grantee, in case of failure of title, even where the State purported to own the land, and assumed to give title by its letters patent, depends upon a very different basis, and is not affected by judicial decisions. The extent of the liability is fixed by positive enactment of the Legislature. The measure of damages is settled and declared by a public statute of the State, and no power exists in any public officers or agents, to extend or limit it, nor can any citizen aver ignorance of the law. It is as though it were inserted at length in every deed, every patent, and every conveyance of land granted under the authority of the State. The re-payment of the original purchase money, which may have been paid to the State, by the grantee, with interest at the rate of six per cent, from the time of the payment, is this rule. [See chap. 9, title 5, sec. 6, of the 1st part of the Revised Statutes.] If then, this land had been granted by the State, by letters patent, and the title had

wholly failed, these defendants would have had no other or greater claim upon the State. This law would have been a part of their contract, and virtually, a part of their patent. They would have known, at the time of purchasing, the extent of liability assumed by the State in case of failure of the title, and they would, therefore, have known that, if litigation as to the title ensued, and costs were incurred, the State had not become liable to pay them. Such would have been the situation, and such the rights of these defendants, had the State assumed to possess the title to the land covered by the tax deed, and had it granted that land to them by letters patent. In that case, therefore, they would have had no claim, either legal or equitable, upon the State, for the payment of the costs of any litigation respecting it.

But this land was not so granted. The State did not assume to have title in itself, to the land sold for taxes. The very nature of the proceeding furnishes the most conclusive evidence that the title is not in the State. The sale is made that the State may realize the money it has advanced, or which is due to it, for the tax; and the tax forms an incumbrance or lien upon the land, taking priority to all other liens, and not to be discharged but by actual payment. It is a lien also created, not by the act of the possessor, or owner, or claimant of the land, but by operation of law, and therefore, is entirely unaffected by any defects of title in any of the persons claiming, occupying, or interested in the land. When the land is non-resident, the lien attaches, without reference to owners or claimants, and not being derived from any of those interests, is entirely unaffected by them. It is a lien upon the land and not upon the interest of any individual, in, or upon the title of, any individual to it. If, therefore, the land exists, and the tax is due, the title acquired by the sale and conveyance must be perfect; subject to the conditions of the law under which the deed is executed.

But suppose there is no land such as is described in the tax deed, or if the land exists, that the tax has been paid for which the sale is made. In either of these cases the purchaser takes nothing by his deed; and what has the law declared to be his remedy? What is the liability which the State has, by a public law, assumed upon itself? The answer is contained in the 91st section of title 3, of chapter 13, of the first part of the Revised Statutes. It is to refund to the purchaser, his representatives or assigns "the purchase money and interest thereon." Here then is the same liability as-

sumed by the State, as in the case of patented lands, with the single variation, that in this case, seven per cent, and in that case, six per cent interest is paid upon the purchase money. In both cases the measure of remuneration, in case of failure of title, is distinctly declared by a public law. In the latter case, the provision is a part of the same law, which directs the sale and conveyance, and which gives validity to any part of the proceeding. But no provision is to be found, in any present or previous law, by which the State either expressly or impliedly binds itself to any other rule of damages, or to make any further, or greater remuneration to the purchaser. The terms of the contract between the State and the purchaser are to be found in the law itself, and this is its express limit in cases of invalid sales.

Here, it is believed, this report might close, as it must be apparent, from what has been already said, that the defendants, mentioned in the petition, have no other claim upon the State, than to have the purchase money received by the State, and the interest thereon, refunded to them, in case the sale of the land was invalid, and that the plaintiffs, mentioned in the petition, having to derive any claim they may make from the rights of the defendants, can have no claim greater than the claim of the defendants; and the existing law being abundantly sufficient to render that claim available.

But as it is in the power of the Legislature to extend to any of the petitioners any relief they may suppose them entitled to receive, without holding them to the limits of the legal rights of the defendants, it will be proper to examine somewhat farther, the facts in reference to this particular case; the former remarks having been predicated upon the assumption that the sale of the land was invalid, and that the title purporting to have been conveyed by the tax deed, had been well tried and decided against the holders under it. These facts, however, are not intended to be admitted, and have only been assumed to exhibit the more clearly the views entertained by the Comptroller, as to the liability of the State, in the strongest case which could be put, arising from an invalid sale of lands for taxes.

It is now probably well ascertained, that there has always existed a mistake in the assessors, as to the quantity of land actually embraced within the boundaries of the lot in question, and that all the difficulties in relation to the taxes upon this lot, or at least by far the greatest share of them, have their origin in this mistake. It

will be seen, by recurring to the statements before given of the returns of the lot, that it was returned as containing six hundred acres of land, until after the tax sale of 1815. For the taxes of 1814, 1815 and 1816, it was returned as containing five hundred and twenty acres and twenty-four perches; and for the unpaid taxes of these years, the sale of 1821 was made, which has caused the dispute. There is good reason to suppose, that during the whole of this time, the lot was understood to be of a square form, and that the returns and payments were made under that belief: at all events, such was the supposition at this office, as is shown by this sale.

By referring to the history of the returns of the lot for the years 1814, 1815 and 1816, before given, it will be seen that two pieces of the lot, both containing one hundred and thirty-seven acres and twenty-four perches of land, were excepted in that return, the taxes thereon having been paid in the county. These pieces were described in the return with unusual particularity, and copies of the descriptions of each, as found upon the books of this office, are given. The quantity of land returned charged with taxes for those years, will be seen to have been three hundred and eighty-three acres; and the account of payments will show that Daniel Kellogg paid, at this office, the proportion of the taxes due upon one hundred and eighty-eight acres in the northwest corner of the lot, a very minute description of which was given, and is copied from the book. Walter Wood also paid, at this office, the proportion of the taxes due upon the southeast hundred acres of the lot, thus leaving ninety-five acres of the quantity returned, upon which taxes were not paid. The sale of 1821 was for the arrears of taxes unpaid upon these supposed ninety-five acres. The sale was of sixteen acres "on the east line of the lot, and adjoining the southeast or State's hundred acres." This is the description of the piece sold, as taken from the sales book, and must substantially correspond with the description in the deed, as that is always made from the book. The consideration money paid was \$19.75.

These facts being carefully borne in mind, it will be necessary to examine the steps which have been taken by the purchaser and those claiming under him, since the sale. After the sale of any lot or part of a lot, for the arrears of taxes due, and after the purchaser has paid into the treasury the consideration money, that being in all cases the taxes, interest and charges due upon the lot, he receives

from the Comptroller a certificate of his purchase, as directed by the sixty-fifth section of title three, chapter thirteen of the first part of the Revised Statutes; this section being, in this respect, precisely similar to the Revised Laws of 1813, vol. 2, page 517, section 17, the law in force when the sale of 1821 took place. That there may be as little doubt as possible about the facts in this case, the Comptroller has caused the certificate given to Mr. Baldwin for this purchase, and which is always surrendered and put upon file in this office, when a deed is executed, to be looked up, and he finds the following to be a true copy of it, as it was issued :

"STATE OF NEW-YORK, }
" COMPTROLLER'S OFFICE. }

"I do hereby certify, that at a public vendue held by me this day, at the capitol, in the city of Albany, in pursuance of the statutes of this State in relation to the assessment and collection of taxes, J. C. Baldwin hath purchased sixteen acres of land, situate in the county of Onondaga, and to be laid out at the expense of the purchaser, in a square, as nearly as may be, on the E. line adjoining 100 acres in the southeast corner of lot No. 75, Lysander, for which he hath paid the sum of nineteen dollars 75 cents, and which said purchase entitles him to all the benefits secured to purchasers in and by said statutes.

"JOHN SAVAGE, *Comptroller*.

"*Albany, February 23, 1821.*"

By a memorandum in pencil, upon the certificate, it is rendered more than probable, that an addition was made in the deed, to the description of the land as given in the certificate, of the following words: "saving 37 acres resident in the N. E. corner;" the effect of which would be, to make the description in the deed read substantially as follows: "sixteen acres of land, situate in the county of Onondaga, and to be laid out at the expense of the purchaser, in a square, as nearly as may be, on E. line adjoining 100 acres in the southeast corner of lot No. 75, Lysander, saving 37 acres resident in the N. E. corner." There is little doubt that the deed presents a description, if not in the above words, in substance similar to the one above given.

Two important questions will now arise in reference to the power of the grantee, as to the location of his purchase under this deed. Could he locate other than upon the east line of the lot? His purchase was of 16 acres, to be laid out at his own expense, as nearly

in a square as might be, "on the east line of the lot and adjoining the 100 acres in the southeast corner, and saving the 37 acres resident in the northeast corner." The fact is ascertained to be, that the 100 acres in the southeast corner, and the 37 acres resident in the northeast corner, as described in the returns, not only extend along and cover the whole east line of the lot, but actually run over upon each other more than fifteen chains. No location could, therefore, be made upon the east line of the lot, as the taxes upon the southeast hundred acres were all paid, and the 37 acres were not returned to this office. The piece sold was to be bounded on the south by the 100 acres in the southeast corner, and, therefore, could not fall within that 100 acres, and, as the 37 acres in the N. E. corner as described, not only extended to the south bounds of the 100 acres in the southeast corner, but over run those bounds by several chains; if any location of the piece sold was made upon the east line of the lot, it must fall within the 37 acres, and the 37 acres not having been returned at all for the years for which the sale was made, such a location would, of course, be invalid. Was not, then, the sale invalid within the provisions of the 91st section of the law before referred to, and did not that section provide the appropriate remedy for the purchaser at the tax sale, or his assigns? If any question could be entertained under the law, as to its being the duty of the purchaser to ascertain these facts, and to lay out his own land, purchased at the tax sale, that question is put at rest by the certificate, which expressly declares that the land described in it is "to be laid out at the expense of the purchaser." It was, therefore, his business, at his own cost, to have ascertained the definite boundaries of the 100 acres in the southeast corner of the lot, and also the definite boundaries of the 37 acres in the northeast corner not returned; by which he would have learned that no land upon the east line of the lot, remained charged with taxes, at the time of the sale; upon which his purchase could be located, and, therefore, that the sale to him was invalid, and that he could call for the refunding of the purchase money paid by him, and the interest thereon. No doubt is entertained by the Comptroller, that this was the course which should have been pursued by the purchaser, or his assigns, and that he was entitled to the refunding of his money, unless he could locate his purchase upon the east line of the lot.

Still it would seem, if the facts appearing upon the trial, have been correctly represented, that a different construction has been put upon the right to make a location under the deed; and that no

land being found liable upon the east line of the lot, the purchaser, or those claiming under him, have attempted to locate the purchase at a distance from that line, of twenty or more chains. A copy of a map of lot No. 75, Lysander, said to be an accurate copy of the map made for the purpose, and proved upon the trial of the suits mentioned in the petition, to be a true map, from actual survey of this lot, with the locus in quo of the trespass suits correctly laid down upon it, has been handed to the Comptroller. From this he has caused a map to be made, following exactly the copy presented to him, with the additions of the parts of the lot not returned charged with taxes for the years in question, and of the parts of the lot upon which the taxes were paid at this office before the sale in 1821. This map, thus prepared, is annexed to this report, and the locus in quo, in each of the suits, being two small pieces of land, the one of five and the other of seven acres, are shaded with blue upon the map; and the five acre piece is marked with the name of Samuel Rhoades, and the seven acre piece with the name of Joseph Rhoades. Within the bounds of these two pieces of land, the trespasses are said to have been committed for which the suits were brought, and as these were the lands to which the defendants in the suits plead title, it is inferred that these are part of the sixteen acres upon which they located under the tax deed. A single glance at the map will show that these lands are far removed from the E. line of the lot, nor will it appear, from a further examination, how the location could be made upon these lands under the description in the tax deed, even if it should be conceded that the location might be off from the east line.

The only reason which can be conceived upon which it would be pretended that the location was not, by the description, confined to the east line, is, that in the description of the land sold, a saving was made of the 37 acres in the northeast corner, not returned. It has probably from this fact, though it is believed erroneously, been supposed, that if the location could not be made upon the east line, and north of the 100 acres in the southeast corner, without encroaching upon, or falling within, the 37 acres saved, that then it might be removed south so far as to clear the 37 acres, preserving the southern boundary, as defined in the description, to wit, the 100 acres in the southeast corner of the lot. This certainly is the greatest latitude which the claimants can seek to give to the power of location, under the description contained in their deed, and this is believed to be wholly unauthorised. The permanent bounds given

in the description, are the east line of the lot, and the north line of the State's 100 acres; and if they could depart entirely from one of these boundaries, it is not seen why they might not, with as much propriety, depart entirely from the other; and if they could depart from both, their power of location would be only limited by their choice or convenience. But upon the supposition that they were to be allowed the latitude mentioned, a further view of the annexed map will show that even that construction will not support the present claim.

The 100 acres in the southwest corner of the lot, and the 87 acres and 24 perches in the northeast corner of the lot, shaded with yellow upon the map, are the 137 acres and 24 perches, excepted from the return of the lot for the years for which this sale was made. The taxes for these pieces; therefore, were paid in the county, and they were not returned or even liable to be sold. The 188 acres in the northwest corner of the lot, and the 100 acres in the southeast corner of the lot, shaded with green upon the map, are the 288 acres upon which the taxes were paid at this office before the sale of 1821. The descriptions of all these pieces, as before given in the history of the returns and payments, will precisely correspond with the map. Upon the residue of the lot, shaded with red upon the map, and consisting of a square piece upon the north line, and of a narrow strip adjoining the north and west lines of the State's 100 acres, the taxes do not appear to have been paid at all for the years for which the sale of 1821 was made. The quantity of land upon which the taxes have not been paid, is more than 16 acres, the quantity sold; and surely if the construction of the description is to permit a location off from the east line, it must be for the purpose of reaching the land upon which the taxes had not been paid, and therefore the location should have been upon this part of the lot, and not south of it, and within the 188 acres paid. It will however be seen that a part of the locus in quo, in the case of Joseph Rhoades, was liable, and nothing in the papers goes to show that the alleged trespass, in that case, was not committed on the part of those premises upon which the taxes had not been paid, and in that case it will not be pretended that the verdict gives a claim upon the State.

In any event, therefore, no claim against the State is discovered to have arisen out of this litigation, in favor of any of the parties concerned in it.

It has been suggested that the forms of the tax deeds, as long established and used in this office, go farther than the law warrants; and that the language used in making the conveyance amounts to a covenant to warrant and defend the premises described in the deed. One of those blanks is annexed to the map and herewith transmitted, that the Legislature may compare the deed with the law, and, in that way, determine the weight of this opinion. Section 80 of title 3, chapter 13 of the first part of the Revised Statutes, directs the conveyance, and declares that it "shall vest in the grantee and absolute estate, in fee simple," and it is not believed the language of the form is stronger, or goes farther, than this language of the law. But if the Comptroller has mistaken the use of the terms of the conveyance, does that furnish the ground of a claim upon the State? The law is the directory as well of his acts, as of the acts and rights of the purchaser. It is a public law, and both are equally bound to know its provisions. The Comptroller is the mere agent of the State to execute the law, and if he exceeds the powers that confers upon him, his acts are void, and the purchaser must know that they are so. This law declares the consequence of an invalid sale, which, in other words, is always a failure of title to the land sold. The rule of compensation is fixed to the refunding of the purchase money and interest, and it would be incredible that a purchaser at a tax sale, should allege his ignorance of this provision.

These sales, as all know, are not made with the certainty which ordinarily attends the conveyance of lands, from one owner to another. The law under which they are made, recognizes that mistakes may exist with the assessors, with the collectors, with the county treasurers. It recognizes that these mistakes may not be discovered until after a sale, and not until after a conveyance of the lands, and it provides for the correction, in a simple and cheap manner, of all such mistakes, when satisfactorily shown to exist, whether that be before or after a sale and conveyance. All these provisions are spread upon the face of a public law, and it may be safely assumed as a fact, that no persons are better acquainted with the provisions of that law, so far at least as their interests are concerned, than the purchasers at the tax sales. They are not ignorant that these mistakes may exist, nor that they are to be ascertained, when they do exist, at their expense, and that they must show their existence, to entitle them to a return of their money and the interest. The certificate they receive for every purchase, declares to them that the land described in it is "to be laid out at the expense of the

purchaser," and does not leave them room for doubt upon that point. The prices they pay at these sales afford the strongest evidence of the full knowledge of the purchasers of the hazards they incur from these causes. Let the Surveyor-General sell the lands as the property of the State, which are offered to the bidders at the tax sales, and the advanced prices offered would furnish the fairest graduation of the different estimates put upon the different modes of receiving title from the State. In the one case, the purchasers would have full confidence that they would be put in quiet possession of the lands, and that their purchases would in no respect disappoint or fail them. In the other they are aware that difficulties are to be encountered, and that uncertainties constantly attend the reducing to possession the lands they bid in. But if the State were, in either case, equally the warrantor of the title, and liable for all the trouble and expense of testing its validity, this difference in the estimated value of purchases would cease, as the reason for it would not exist. The purchaser at the tax sales would not then be found seeking to insure himself against the hazards of his contract, by the entire inadequacy of the price he would offer, but his bids would be graduated by his judgment of the intrinsic value of the property upon sale.

For these reasons it is believed that the tax law does not impose upon the State any greater liability to the purchaser or his assigns, in case of an invalid sale of lands for taxes, than the refunding of the purchase money paid, and the interest thereon; that the deed of the Comptroller does not, in fact, and cannot in law, change or increase this liability; that the purchasers at these sales, are in fact, fully acquainted with the provisions of the law, and with the practice under it, and consequently with the hazards attending these purchases, as well as with the extent of their remedy, in case a sale proves to be invalid; that justice to the purchasers does not require, and that the interests of the State forbid, that these liabilities in case of invalid sales, should be extended; that in the case of these petitioners, their location of the land has not been made according to the terms of the sale, or the description in their deed, and that therefore they have no claim whatever upon the State in consequence of a litigation as to the title to a part of the lot in question, which had not assumed to be sold; and that in any sense in which the subject can be viewed, the prayer of the petition ought not to be granted.

The petitioners seem to place great stress upon the fact that they gave notice to the Governor and to the Attorney-General and took the steps pointed out by the law, in cases of suits commenced for the recovery of lands held under warranty from the people of the state. The Comptroller, as will have been before seen, does not consider the tax deeds as, in any respect, the conveyances contemplated by that provision, and therefore he supposes that any directions from those officers, had any been given, would have been altogether unauthorised. He is however authorised by the present Attorney-General to say that he has never had the facts in this case laid before him, until the present time, and that he has never before understood that the litigation had grown out of a tax sale, or that the title was claimed by virtue of a tax deed; that he was once or twice casually spoken to upon the subject, and generally informed that the defendants claimed as grantees of the state, and that he has signified to them that they should defend themselves to the best of their ability, but that he was not, at any time, acquainted either with the nature of the suits, or the character of the conveyance under which they claimed.

The relation of a conversation with the Comptroller is also found in the papers referred. That this conversation should have been referred to as affording the foundation of a claim, or as strengthening an existing claim upon the State, has somewhat surprised him. That one of the attorneys of the defendants did give him a relation of the litigation, after the suits had been tried at the Onondaga circuit, in which it was represented that proof of the payment of all the taxes upon the whole of the lot in question was made to the court and jury, is true; and it is also true that the Comptroller expressed his opinion that the defendants could not recover, if no taxes were in fact due upon the lands sold, and that a continuance of the litigation would be of no avail, under the proof as represented to have been made upon the trials. These opinions however were not expressed by way of direction, nor in any manner as connected with any of his official powers or duties.

It seems to have been understood at the trial that no taxes were due upon any part of this lot, at the time the sale took place in 1821. This will be seen to have been a mistake from the map herewith transmitted, and from the descriptions given of the return of the lot for the years 1814, 1815 and 1816, and the descriptions of the parts paid. These descriptions, accurately laid down, do not

cover the map by the part shaded with red. The mistake no doubt arose from the fact that the 37 acres and 24 perches, not returned, in the northeast corner, covered some 17 or 18 acres of the 100 acres in the southeast corner, as will be seen upon the map, and the taxes having been afterwards paid at this office upon the whole 100 acres in the southeast corner, the effect would be to cause a double payment upon these 17 or 18 acres; first, a payment in the county, and next a payment at this office. The whole number of acres therefore upon which payments appeared to have been made might have been equal to the whole number of acres in the lot, and still, as these 17 or 18 acres had been twice paid, and would be twice included in an addition of the whole payments, there might remain 17 or 18 acres of the lot upon which the taxes had not been paid at all, unless some other mistake exists in the return of the lot for the years referred to, different from the mistake as to the quantity of land contained in it. This must be true as will be found by comparing the descriptions with the map.

It may be proper further to state that 40 acres on the E. line of this lot, and adjoining to the 100 acres in the southeast corner, were sold at the tax sale in 1826 and purchased by Harvey Baldwin for \$34.43, the amount of arrears of taxes, interest and charges, standing against this lot for the years 1817 to 1821 both inclusive. But as it is not known that any litigation has grown out of that sale, it cannot be material to detail the account of returns and payments for those years. No sale of any part of the lot was made at the last tax sale, as the Comptroller was informed, pending the sale, of the difficulties in relation to the returns.

All which is respectfully submitted.

SILAS WRIGHT, JR.

Dated, Albany, 3d March, 1831.

IN SENATE,

March 4, 1831.

REPORT

**Of the committee on the judiciary, on the petition
of Daniel Steward.**

Mr. Benton, from the committee on the judiciary, to which was referred the petition of Daniel Steward, praying for the passage of a law to relieve him from embarrassments arising under the will of his father ;

REPORTED AS FOLLOWS, TO WIT :

That the facts of the case, and the questions of law arising upon the facts, do not, it seems to the committee, present a proper subject for legislative interference.

Colvill Steward, the ancestor of the petitioner, devised certain real estate in these words: " I give and devise to my son, Daniel Steward, the farm of land I now live on, with the buildings and appurtenances thereunto belonging, to hold to him, his heirs and assigns for ever, he paying to my said son Cee, the sum of one hundred dollars in two years after my decease, one hundred dollars in three years after my decease, and one hundred dollars in four years after my decease ;" and directing by his will that the said Daniel should support his mother during her widowhood, and his sisters until they should arrive at lawful age, or until their marriage respectively, whichever might first happen. And in the same devise the testator provided as follows: " and if my said son Daniel shall die without lawful issue, during the widowhood of my said wife Joanna, then and in that case my will is that she shall have the use and improvement of the farm hereby devised to him during the time she shall remain my widow ; and afterwards I will and order the

said farm to be sold by my said executors, at their discretion, and to give a title for the same, and the money arising from the sale thereof, I will, bequeath and direct that the same be equally divided among my other children, or their legal representatives respectively."

The petitioner represents that he is now unmarried, and has no lawful issue ; but if he has an estate in fee, to the premises devised, and it seems to the committee he has, upon what contingency is it liable to be defeated ? The charge of the payment of the legacies to his brother, and maintenance of his mother and sisters, is not upon the estate, but upon the petitioner personally. If the petitioner survive his mother, having no lawful issue, then there can be no question at all as to the nature and character of his estate ; and if he have lawful issue, there can be none. Suppose, then, the petitioner should grant the whole or a part of the premises in fee, to a purchaser for a valuable consideration, would not the words of perpetuity contained in the demise, be enough to protect the purchaser ?

But if this proposition is not defensible, then the other children have such an interest in the remainder, as cannot be divested by an act of the Legislature. This interest, if any, depends upon a contingency which may be considered remote and uncertain ; remote, because it depends upon the life of the petitioner, and uncertain, because it depends upon the fact of the wife of the testator remaining a widow, and outliving the devisee ; nevertheless if the right is given by the will, it is not perceived how the Legislature can make a new will, or change or alter one which has taken effect as such.

The petitioner represents that he has become indebted to an amount exceeding, as he believes, his interest in the estate, and that his right in the property is now liable to be sold upon execution ; and he expresses a fear that an adequate price will not be offered for it upon a sale, in consequence of the peculiar situation of the title. Among the papers, however, submitted to us, there is one which purports to be a release to the petitioner, signed by the other children of the testator, conveying all their present and future right and interest to a certain piece of real estate therein described. If this conveyance covers any or all the premises devised, and can be deemed of sufficient validity, under the existing circumstances,

to authorize legislative action, the committee do not doubt but the release itself confers every right and power that an act of the Legislature would, founded upon it.

Whether the widow, who is represented to be still alive, and has, in the event of her surviving the petitioner, (he dying without lawful issue,) an interest in the premises during her widowhood, ought to have joined in this conveyance; and whether the executors should have concurred in, and executed the release, it is not now material to inquire. Should this be deemed necessary, then upon the principle above suggested, it would seem to be improper to act without such concurrence; and if their assent is not requisite, the answer is already given above.

Entertaining a decided opinion that it is not only unnecessary, but inexpedient, for the Legislature to interfere or pass any act in relation to the questions arising out of this case, the committee are of opinion that the prayer of the petitioner ought not to be granted, and submit to the Senate the following resolution:

Resolved, That the petitioner have leave to withdraw his petition and papers.

1. 1. 1.

2. 2. 2.

3. 3. 3.

4. 4. 4.

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IN SENATE,

March 4, 1831.

REPORT

Of the committee on the judiciary, on the bill to amend article 2d, title 2d of chapter 1st, part 3d, Revised Statutes.

Mr. Benton, from the committee on the judiciary, to which was referred the bill introduced into the Senate, entitled "An act amendatory of article 2d, title 2d of chapter 1st, part 3d of the Revised Statutes,"

REPORTED AS FOLLOWS, TO WIT :

That the thirty-seventh section of the above title provides that the court of chancery shall dismiss every suit concerning property, where the matter in dispute, exclusive of costs, does not exceed the value of one hundred dollars, with costs to the defendant.

Before the above provision was adopted and incorporated as a part of our Revised Statutes, it is well understood that chancery would not take cognizance of a cause, unless the matter in controversy exceeded fifty dollars in value ; or it may be more proper, perhaps, to say that former chancellors have intimated or suggested, that the court of chancery ought not to entertain causes, where the matter in dispute did not amount to that sum.

In fixing the above limitation, it is very obvious the Legislature had an object in view, worthy of serious consideration. A protracted litigation in that court, for an amount of property less than one hundred dollars, would scarcely prove beneficial, even to the successful party.

[S. No. 48.]

In reference to the provisions of the bill referred, the committee would remark, that they have no doubt there may be cases where it might be convenient to the mortgagee to foreclose the equity of redemption in chancery ; but they suppose the occurrences must be rare, from the following fact, as well as others which might be mentioned : If the amount due upon the mortgage be less than one hundred dollars, and the mortgaged premises should, in value, exceed the sum due by any considerable amount, it would always be the interest of the subsequent incumbrancer to extinguish the prior lien, without driving the prior mortgagee to his legal remedy. If the mortgaged premises should be, in fact, a slender security for the sum due, then it is supposed that a foreclosure and sale by public notice under the statute, would be the most appropriate remedy in all those cases where, by a resort to the bond, payment cannot be enforced. This remedy, the mortgagee or his assignee now has ; but by this mode, the equity of the subsequent incumbrancer is not foreclosed, and the purchaser under the sale would be subjected to the inconvenience of accounting for the rents and profits of the premises purchased, during the period of his possession ; and after deducting the amount of such rents and profits from the principal paid as purchase money, with the interest, he would be obliged to take the balance and yield up the premises, or he might extinguish the subsequent lien.

It must be evident, that in all the cases of foreclosure of mortgages where the sum due is less than one hundred dollars, the foreclosure of the equity of redemption of subsequent liens, is not so important as it is where the sums due are large, and the premises mortgaged extensive, subject to vary in the market price, and of a character to yield a large amount in rents and profits, with small outlays by way of improvements. The committee have been obliged to confine themselves to general observations and remarks in regard to this subject. They cannot say there are not cases which call upon the Legislature for a modification, such as is proposed by the bill ; they are, however, well satisfied that sound policy requires "some limit should be fixed, by which ruinous litigation may be prevented."

With this expression of their views in relation to the provisions of the foregoing section of the Revised Statutes, the committee submit to the Senate whether it is expedient and proper to pass the bill referred to them.

No. 49.

IN SENATE,

March 5, 1831.

REPORT

Of the committee, on the division of towns and counties, against the petition for dividing the town of Brookhaven in the county of Suffolk.

Mr. Beardsley, from the committee on the division of counties and towns, to which was referred the petitions and remonstrances for and against the division of the town of Brookhaven in the county of Suffolk,

REPORTED AS FOLLOWS:

That the town of Brookhaven extends across Long-Island from the Atlantic to the Sound, about twenty miles, and extends from east to west on the north side about 15½ miles, and on the south side of the Island from east to west about 23 miles. The population, at the last United States census, was 6,095.

The applicants for a division are numerous, but it is conceded that a majority of the inhabitants of the town are opposed to its division.

It is alleged by those opposed to a division, that at the last annual town-meeting the question was submitted to the electors, and that a decided majority voted against any division of the town, and that many of the inhabitants, residing within the contemplated new town, opposed the division.

Although the territory of Brookhaven is large enough for two or three towns, still the census shows that the population is very limited, when compared with the extent of territory.

The present town has existed 144 years, and it is alleged that the inhabitants have remained contented, without seeking for a division, until the last year.

Independent of the fact that a large majority are opposed to the present application, the committee have been embarrassed with objections to its division, growing out of the corporate rights of the town.

Brookhaven was constituted a town by patent, issued 27th December, 1686, constituting the trustees of the town a body politic and corporate, with right of perpetual succession, and granting to them and their successors, forever, certain territory, with all the bays, harbours, and rivers, with the rights of fishing and fowling within its limits.

The trustees have a common corporate seal, and in their corporate capacity object to the present application.

It is objected, that the Legislature cannot divide this territory, except by consent of the corporators, evidenced by the assent of the trustees in their corporate capacity, without violating the rights granted by the patent, creating them a corporation.

The town under this patent has common property, part of which would, by the division, fall in one town, and part in the other; and such division would wrest from the trustees part of the corporate property granted by the patent.

Another objection to the present application is, that if the town is to be regarded strictly as a corporation, then the notice is defective in not having been published as the law requires, where application is made to alter or modify corporations.

The committee are not prepared to express an opinion in relation to the questions of law, arising under this charter, in the contemplated division, but they have found themselves much embarrassed with them, and with a decided majority of the inhabitants opposed to the division, and a remonstrance from the trustees, (the official organs of the town) the committee have come to the conclusion not to recommend the division asked for.

The long contested and very expensive litigation which has attended the division of the town of Hempstead, on Long-Island, should serve as an admonition, not to disturb the corporate rights secured by these old charters, unless the grievances complained of are such as to create a much greater unanimity of sentiment than appears to exist in the town of Brookhaven on this subject.

The principal ground of complaint appears to be the extent of territory in the present town, and if this affords just ground of complaint, a further consultation among the inhabitants may possibly result in an application for such a division of territory as the trustees will consent to, and thus obviate the difficulties which are supposed to exist under the charter.

Under existing circumstances, the committee recommend that the prayer of the petitioners be denied, and that they have liberty to withdraw their petitions.

1. The first step is to identify the problem or question that needs to be addressed. This involves understanding the context and the specific requirements of the task.

2. Next, it is important to gather relevant information and data. This can be done through research, consultation with experts, or by analyzing existing data sets.

3. Once the information is gathered, the next step is to analyze it. This involves identifying patterns, trends, and potential solutions. It is important to consider all possible options and weigh their pros and cons.

4. After analysis, a decision must be made. This involves selecting the most appropriate solution based on the available information and the specific requirements of the task.

5. Finally, the chosen solution must be implemented. This involves putting the plan into action and monitoring the results to ensure that the problem is effectively solved.

...and the fact that the *Journal* is a journal of the American Psychological Association, the largest and most influential of the professional organizations in the field of psychology, is a source of great strength and authority. The *Journal* is a journal of the American Psychological Association, the largest and most influential of the professional organizations in the field of psychology, is a source of great strength and authority.

No. 50.

IN SENATE,

March 3, 1831.

ANNUAL REPORT

Of the Regents of the University.

Honorable EDWARD P. LIVINGSTON,
President of the Senate,

SIR,

I have the honor to transmit herewith the Annual Report of the Regents of the University to the Legislature.

**I have the honor to be,
Sir, your most ob't serv't.**

S. DE WITT.

March 1st, 1831.

[S. No. 50.]

ANNUAL REPORT

OF THE

REGENTS OF THE UNIVERSITY

OF THE

STATE OF NEW-YORK.

MADE TO THE LEGISLATURE, MARCH 3, 1831.

ALBANY :

PRINTED BY CROSWELL AND VAN BENTHUYSEN.

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	824 57	P
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	164 46	P
	172 68	L
	277 18	P
	360 68	P
	115 50	P
	122 92	P

the regents have conferred the degree of doctor of medi-

REPORT, &c.

To the Honorable the Legislature of the State of New-York.

THE REGENTS OF THE UNIVERSITY RESPECTFULLY REPORT,

That they have, during the present year, received reports from Union and Geneva colleges, and from the college of physicians and surgeons of the western district; and from fifty-eight academies incorporated by the Regents, or subject to their visitation. But that no reports for the present year have been received from Columbia or Hamilton colleges, or from the college of physicians and surgeons in the city of New-York.

From the report of the trustees of Union college it appears, "that ninety-six young gentlemen were admitted to the degree of bachelor of arts, at the last annual commencement. That the whole number of students for the current year has been two hundred and twenty-seven." The trustees add in their report, that during the last year, the students of the institution have generally prosecuted their studies in a satisfactory manner, and have been exemplary in their conduct.

The trustees of Geneva college report, that the whole number of students who have received instruction in that institution during the past year, is forty-two; that the number belonging to the college during the term which closed on the 23d of December last, was thirty-three. They also report, that seventy-six students have during the past year received instruction in the preparatory school connected with the college; making a total in the college and preparatory school, for the past year, of one hundred and eighteen.

The trustees of the college of physicians and surgeons of the western district report, "that the number of students attending the lectures delivered at this institution during the term ending in January, 1831, was one hundred and seventy-nine." That the incidental expenses for the current year have been defrayed by the professors, and that the debt of \$5,000 incurred a few years since in the erection of a college building has been reduced by them to \$2,500. The Regents have conferred the degree of doctor of medi-

cine upon forty-four students of this institution, the present year, upon the recommendation and report of the trustees of this college.

From the reports received from the several academies, (abstracts from which are herewith transmitted,) it appears that at the time of making those reports, there was an aggregate of 4,303 students belonging to those institutions; of which number, 2,220 have pursued classical studies, or the higher branches of English education.

The abstract transmitted, will exhibit a general view of the particulars contained in the reports from the several academies, and also the distribution made by the Regents during the preceding year, of the income of the literature fund, as required by the 28th section of article 1st of title 1st of the 15th chapter of the 1st part of the Revised Statutes.

Abstracts are also herewith transmitted from the meteorological returns for the last year, received from forty-two of the academies incorporated by the Regents, or subject to their visitation.

Respectfully submitted.

By order of the Regents.

SIMEON DE WITT, *Chancellor.*

GIDEON HAWLEY, *Secretary.*

Albany, March 1st, 1831.

AN ABSTRACT
OF THE
RETURNS
OF
METEOROLOGICAL OBSERVATIONS
MADE TO THE
REGENTS OF THE UNIVERSITY,
FOR THE YEAR 1830.
BY
Sundry Academies in this State,
IN OBEDIENCE TO INSTRUCTIONS, DATED
MARCH 1, 1835.

ACADEMIES.

1888

List

Albany,	Albany,	Albany,	The whole year,	T. Romeys Beck, M. D. Principal.
Auburn,	Auburn,	Albany,	The whole year,	liver S. Taylor, Principal.
Cambridge,	Cambridge,	Cayuga,	The whole year,	steth, Principals, and M.
Canajoharie,	Canajoharie,	Washington,	The whole year,	[Stevenson, M. D.
Canandaigua,	Canandaigua,	Montgomery,	The whole year,	
Cayuga,	Aurora, (Ledyard,)	Ontario,	The whole year,	
Cherry-Valley,	Cherry-Valley,	Cayuga,	The whole year,	
Clinton,	East-Hampton,	Otsego,	The whole year,	
Cortland,	Homer,	Suffolk,	The whole year,	
Delaware,	Delhi,	Cortland,	June to December, inclusive, ..	
Dutchess,	Poughkeepsie,	Delaware,	The whole year, incomplete, ..	
Erasmus-Hall,	Flaibush,	Dutchess,	The whole year,	
Fairfield,	Fairfield,	Kings,	The whole year,	
Franklin,	Prattsburgh,	Herkimer,	January to November, inclusive	
Fredonia,	Pomfret,	Steuben,	The whole year,	
Gouverneur High School, ..	Gouverneur,	Chautauque,	The whole year,	William Allgeo.
Hamilton,	Hamilton,	St. Lawrence,	June to December, inclusive, ..	Avon H. Storrs.
Hartwick,	Hudson,	Madison,	The whole year,	San Bishop, Teacher.
Hudson,	Hartwick,	Otsego,	The whole year,	
Jonestown,	Hudson,	Columbia,	Several months incomplete, ..	
Ithaca,	Johnstown,	Montgomery,	The whole year, ex. Aug. Sept.	
Kinderhook,	Ithaca,	Tompkins,	The whole year,	
Kingston,	Kinderhook,	Columbia,	The whole year,	
Lansingburgh,	Kingston,	Ulster,	The whole year,	
Lewiston,	Lansingburgh,	Rensselaer,	The whole year,	
Lowville,	Lewiston,	Niagara,	From May to Dec. inclusive, ..	
Middlebury,	Lowville,	Lewis,	The whole year,	
Montgomery,	Middlebury,	Genesee,	The whole year,	
Mount-Pleasant,	Montgomery,	Orange,	The whole year,	
Newburgh,	Mount-Pleasant,	Westchester,	June to December, inclusive, ..	
North-Salem,	Newburgh,	Orange,	The whole year,	
Oxford,	North-Salem,	Westchester,	The whole year,	
Pittsburgh,	Oxford,	Chenango,	The whole year,	
Pompey,	Pittsburgh,	Clinton,	August to December, inclusive, ..	
	Pompey,	Oneida,	The whole year,	Andrew Huntington, a Teacher.

ACADEMIES (Continued.)

[S. No. 50.]

List of Academies reporting.	Towns.	Counties.	Time for which they report.	Observers.
Redhook,	Redhook,	Dutchess,	The whole year,	Lyman Thompson, Principal.
Rochester High School,	Rochester,	Monroe,	The whole year,	S. D. Moore, Associate Principal.
St. Lawrence,	Potsdam,	St. Lawrence,	The whole year,	Seth C. Sherman and Nehemiah H. Losey, Teachers.
Union,	Ellisburgh,	Jefferson,	The whole year,	Alvin Nines, a Student.
Union-Hall,	Jamaica,	Queens,	The whole year,	Pierpoint Potter, a Teacher.
Utica,	Utica,	Oncida,	The whole year,	D. Prentice, Principal.
Washington,	Salem,	Washington,	The whole year,	W. Williams, Principal.
Sem. of Genesee & Oncida Con.	Cazenovia,	Madison,	The whole year,	Augustus W. Smith, Principal.

JANUARY, 1830.

26

[SENATE

WEATHER, (NO. OF DAYS.)					Rain inches.
Clear.	Cloudy.	Rain.	Snow.	Rain & Snow.	
15 16	16	2	10	1	1.78
16 8.5	22.5	...	6	5	1.04
17 14	14	2	6	8	1.90
...
9 23	4	...	3.34
28 8	4	...	1.08
17.5 13.5	5.5	...	2.73
21 10	...	2.5	...	...	3.97
20 11	...	2	2.5	2	2.48
15 16	...	3	7	1	2.87
11.5 19.5	...	1	7	...	...
18 13	...	1	11	...	1.72
17.5 13.5	8	1	1.77
11 20	...	1	8	...	1.60
9 22	7	...	2.21
13.5 17.5	5	...	1.32
10 21	2.5	...	...
17 14	2	...	2.60
14 17	...	1.5	8	...	2.10
16 16	...	2	5	...	1.11
14 17	...	2	4	...	1.92
12 19	1	...
14 17	12	...	1.97
19.5 11.5	5.5	...	1.93
...	...	2	1.5	...	1.73
...	2.80
19.5 11.5	...	2.5	...	...	...
12 19	...	1	7	...	2.13
11 20	8.5	...	2.07
19.5 11.5	...	1	...	...	...
...	1.74

JANUARY, 1830, (Continued.)

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain gage.		
	Mean temperature.		Range.	Highest degree.	Lowest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.		Snow.	Rain & Snow.
	1st half.	2d. half.																	
Rochester High School,.....	27.59	16.51	54	49	- 5	4.5	4	1	1	1	6.5	9	15	4	9	22	9	.5	1.63
St. Lawrence,.....	19.15	6.87	60	40	-20	4.5	4	.....	.....	.....	6.5	5	5	4	11.5	19.5	8.5	.....	.63
Union,.....	26.85	12.94	65	47	-18	5	2	3	2	9.5	3	5	5	1.5	12.5	18.5	5.5	.....	.56
Union-Hall,.....	33.54	24.88	47	47	0	4.5	4.5	2	1	.5	5.5	1	16	20.5	20.5	10.5	.....	.....	1.71
Utica,.....	26.34	13.82	62	50	-12	.....	.....	10.5	1	.....	3.5	16	.....	12	19	19	1	2	2.94
Washington,.....	25.08	14.21	61	41	-20	2	6	.....	.....	.....	15	2	5	10	21	21	.....	.....	.....
Seminary of the Gen. & Oneida Con.	26.34	12.86	65	49	-16	.....	.....	.....	.....	12.5	4.5	4.5	9.5	10.5	20.5	20.5	8.5	.....	2.49

FEBRUARY, 1830.

FEBRUARY, 1830, (Continued.)

ACADEMIES.	THERMOMETER.				WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain gauge.	
	Mean temperature.		Range.	Lowest degree.	Highest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.	Snow.		Rain & Snow.
	1st half.	2d half.																	
St. Lawrence,.....	7.73	23.71	73	-27	51	8.5	.5	.5	.5	2	8.5	3	9	17	11	.....	1	.....	.03
Union,.....	15.57	43.71	73	-23	50	4	.....	.....	1	9	5	2	3	19.5	8.5	.....	2	.....	.18
Union-Hall,	21.	36.70	52	1	53	3	1	.....	.....	.5	8	1.5	17	20.5	7.5	.5	.....	.....	1.53
Utica,.....	13.03	31.49	55	-17	63	.....	5	4	.....	.....	7	12	.....	20	8	.....	8	2	.52
Washington,.....	10.13	29.20	73	-24	49	.....	.....	.....	.....	.....	10	2	8	12	16	.....	.....	.....	.....
Seminary of Genesee & Oneida Con..	12.43	29.07	70	-22	43	1.5	.....	.....	1	7.5	2.5	4.5	11	12.5	15.5	.....	3.5	.5	.91

MARCH, 1830.

MARCH, 1830, (Continued.)

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)							WEATHER, (NO. OF DAYS.)					Rain gage			
	Mean temperature.		Range.	Highest degree.	Lowest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.		Rain.	Snow.	Rain & Snow.
	1st half.	2d half.																	
St. Lawrence,	26.77	36.13	71.	59	-12	.....	10.5	.....	.5	4	9.5	1	5	14.5	16.5	3	3.5	.5	2.56
Union,	32.05	40.45	77	68	- 9	5	4.5	.5	4	5	5	3	4	16	15	2.5	3	.....	1.35
Union-Hall,	36.05	42.53	55	73	18	.....	3	2	5	1.5	4.5	.....	15	18.5	12.5	4.5	1	1	5.15
Utica,	29.28	38.62	67	70	3	.....	.....	15	.....	.....	4	13	.....	15.5	15.5	7	9	.....	5.61
Washington,	30.01	37.54	45	56	11	.....	12	.....	1	.....	13	3	2	16	15	.....	.....	.....	.....
Seminary of Genesee & Oneida Con.	27.80	33.27	69	67	- 2	2	.5	1.5	5	5	3.5	3	10.5	12.5	18.5	2	4	.....	3.92

APRIL, 1830.

APRIL, 1830, (Continued.)

No. 50.]

[S. No. 50.]

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain Page		
	Mean temperature.		Range.	Highest degree.	Lowest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.		Snow.	Rain & Snow
	1st half.	2d half.																	
St. Lawrence,	45.04	56.81	60	81	21	1.5	9	5.5	2.5	1	7	1	7.5	16.5	13.5	1.5	.....	.....	.20
Union,	59.52	61.28	52	80	28	4.5	4	5.5	4	4.5	5.5	2	.....	28	7	2	.....	.....	.74
Union-Hall,	46.44	54.14	54	94	30	1	8	5	1	2.5	7	.....	5.5	18.5	11.5	6.5	.....	.....	1.54
Utica,	45.99	56.64	60	90	21	.....	.....	11	3	.....	4.5	10.5	1	21	9	11	.....	.....	2.18
Washington,	44.92	53.88	53	89	25	.....	13	.....	4	.....	10	.....	3	17	13	.....	.....	.....	.....
Seminary of Genesee & Oneida Con.	44.60	54.86	56	81	25	3	1.5	2	3	1.5	6.5	2.5	10	17.5	12.5	1.5	.....	.5	2.10

MAY, 1930.

MAY, 1830, (Continued.)

No. 50.]

55

ACADEMIES.	THERMOMETER.				WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain gauge.	
	Mean temperature.		Highest degree.	Lowest degree.	Range.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.	Snow.		Rain & Snow.
	1st half.	2d. half.																	
Rochester High School,.....	56.69	52.68	84	30	54	3.5	4	.....	2	1.5	7	10	3	17.5	13.5	6.5	.....	.....	4.26
St. Lawrence,.....	54.13	53.17	86	28	58	4	1	.....	.....	4	13.5	2.5	6	16	15	3	.....	.....	2.72
Union,.....	50.82	52.14	85	30	55	4	1.5	1.5	.....	3.5	3.5	9	4	22.5	8.5	3.5	.....	.....	1.34
Union-Hall,.....	56.27	57.02	80	36	44	.....	3.5	.....	5.5	3.5	3.5	.....	10	20.5	10.5	4.5	.....	.....	3.25
Utica,.....	55.10	51.16	83	26	57	.....	.....	5	5	.5	2.5	18	.....	19	12	14	.....	1	4.97
Washington,.....	55.26	46.93	80	31	49	.....	4	.....	.....	.....	19	1	2	15	16	3	.....	.....	.....
Seminary of the Gen. & Oneida Con.	52.65	51.05	78	27	51	.5	.5	.5	1	9	3.5	4.5	11.5	14.5	16.5	1.5	.....	.....	3.51

JUNE, 1880.

JUNE, 1880, (Continued.)

JULY, 1830.

JULY, 1880, (Continued.)

AUGUST, 1830.

AUGUST, 1880, (Continued.)

[S. No. 50.]

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain gage.		
	Mean temperature.		Range.	Highest degree.	Lowest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.		Snow.	Rain & Snow.
	1st half.	2d half.																	
Oxford,	68.02	63.68	43	92	44	10.5	.5	.....	.....	.5	8	7.5	4.5	22	9	2.5	.....	.....	.86
Plattsburgh,	72.57	70.85	18	81	63	8.5	.....	.....	4.5	3	4.5	4.5	6	21	10	3.5	.....	.....	1.61
Pompey,	64.81	62.64	41	87	46	.5	.....	.....	.....	2	9.5	3.5	13.5	21.5	9.5	4	.....	.....	1.84
Redhook,	72.99	71.70	23	88	60	6.5	5.5	4	1.5	9.5	1	.....	3	21.5	9.5	1.5	.....	.....	1.75
Rochester High School,	69.97	67.77	50	93	43	5.5	5.5	.....	1.5	1	5.5	3.5	9.5	19	12	5	.....	.....	1.91
St. Lawrence,	66.17	64.85	42	85	43	5.5	1.5	.....	1	2	9.5	6	6	23.5	7.5	6	.....	.....	2.65
Union,	68.76	60.23	49	85	36	3.5	4.5	1	1	2.5	5.5	5	8	27	4	1.5	.....	.....	1.83
Union-Hall,	71.96	68.29	37	91	54	1.5	9	5	.....	.....	11.5	.....	8.5	22.5	8.5	3.5	.....	.....	1.22
Utica,	65.66	63.85	44	83	44	.....	.....	.....	.5	.....	1	24.5	.....	27	4	10	.....	.....	2.10
Washington,	68.75	64.17	39	86	47	.....	.....	.....	.....	.....	6	5	.....	17	14	1	.....	.....	.....
Seminary of Genesee & Oneida Con.	64.44	62.85	51	90	39	.5	.....	.....	.....	3	.....	.....	16.5	15.5	15.5	1	.....	.....	2.14

SEPTEMBER, 1830, (Continued.)

ACADEMIES.	THERMOMETER.				WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain gage.	
	Mean temperature.		Highest degree.	Lowest degree.	Range.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.	Snow.		Rain & Snow.
	1st half.	2d. half.																	
Oxford,	63.16	54.04	87	28	69	7.5	.5	.5	.....	6	8	5	2.5	15.5	14.5	6.5	.....	.....	1.98
Plattsburgh,	65.51	61.95	73	54	19	4.5	.....	.....	.....	13.5	2.5	6	3	12	18	6	.....	.....	1.79
Pompey,	59.13	50.32	79	38	46	.....	.....	.....	.....	5	6	7	6.5	14	16	6.5	.....	.....	3.85
Redhook,	66.42	58.47	74	41	38	9.5	.....	1.5	2.5	9.5	.....	1	.....	20	10	3.5	.....	.....	1.41
Rochester High School,	62.34	56.98	90	33	52	2.5	5	.5	.....	3	8	8	5	14	16	6.5	.....	.....	3.68
St. Lawrence,	53.47	52.97	73	30	43	2	3.5	.....	.....	3	9.5	3.5	7.5	17.5	12.5	6.5	.....	.....	3.52
Union,	59.80	48.50	78	19	59	2	.....	1	2	9	3	4.5	1.5	13.5	16.5	3.5	.....	.....	4.65
Union-Hall,	66.02	59.24	86	38	48	.....	.....	.....	2.5	3	7	1	10.5	22	8	2.5	.....	.....	1.75
Utica,	59.49	52.95	70	31	39	.....	.....	6	.....	1	2.5	20.5	.....	18.5	11.5	9	.....	.....	2.68
Washington,	60.26	53.61	79	30	49	.....	.....	.....	.....	.....	21	.....	1	14	16	7	.....	.....	.....
Seminary of the Gen. & Oneida Con.	59.92	51.04	75	39	46	2.5	1	.....	.....	9.5	4	1.5	11	9.5	20.5	3.5	.....	.....	4.00

OCTOBER, 1880.

OCTOBER, 1830, (Continued.)

ACADEMIES.	THERMOMETER.			WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain Gage.		
	Mean temperature.		Range.	Highest degree.	Lowest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.		Snow.	Rain & Snow.
	1st half.	2d half.																	
Oxford,	49.25	46.91	46	71	25	1	3	3.5	.....	4	13.5	4	2	18	13	5	.....	.....	2.21
Plattsburgh,	60.53	54.82	24	69	45	8	.....	.....	.....	11	3	3.5	5	19.5	11.5	4	.....	.....	1.77
Pompey,	49.31	44.65	37	68	31	3.5	.....	.....	5.5	1.5	11	4.5	5	18	13	5.5	.....	.....	2.32
Redhook,	53.67	50.30	46	78	32	8	4	2	1.5	12	2	1.5	.....	23	8	4	.....	.....	2.74
Rochester High School,	56.96	53.12	52	80	23	6.5	4	1.5	2	1.5	6.5	5	4	19.5	11.5	3.5	.....	.....	1.04
St. Lawrence,	49.05	45.10	43	72	24	4.5	4.5	.....	1	6	7.5	3.5	4	17.5	13.5	4	.....	.....	2.53
Union,	48.16	45.02	43	68	20	5	5	1	2.5	9	1.5	7	.....	20	11	3	.....	.....	2.45
Union-Hall,	56.23	51.65	43	78	35	.....	8	.....	7.5	.....	4	10.5	7.5	21	10	4.5	.....	.....	4.70
Utica,	50.20	46.00	42	69	27	.....	9	10	6.5	.....	18	3	.....	23.5	7.5	7	.....	.....	2.42
Washington,	47.27	44.24	43	69	26	.....	.....	.....	.....	.....	.....	.....	.....	18	13	3	.....	.....	.....
Seminary of Genesee & Oneida Con.	50.99	48.11	45	73	28	1.5	.5	.5	1.5	9.5	2.5	4	11	18	13	3.5	.....	.....	2.27

NOVEMBER, 1880.

NOVEMBER, 1830, (Continued.)

ACADEMIES.	THERMOMETER.				WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain gauge.	
	Mean temperature.		Highest degree.	Lowest degree.	Range.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.	Snow.		Rain & Snow.
	1st half.	2d half.																	
Oxford,	40.99	41.26	63	31	32	2.5	7	2.5	...	6	1	6.5	5.5	9	21	5.5	2	...	4.59
Plattsburgh,	51.67	47.09	57	39	19	2.5	...	...	1	16.5	3	6	1	15.5	14.5	5.5	5	...	3.49
Pompey,	46.26	37.02	61	24	37	...	...	...	9.5	6.5	11.5	...	2.5	9.5	20.5	5.5	2.5	...	4.76
Redhook,	48.18	42.66	67	31	36	15	6.5	.5	1	6	...	...	1	11.5	18.5	7	...	2	6.12
Rochester High School,	51.09	42.11	63	30	33	2	1	11	4.5	.5	4	5.5	1.5	7.5	22.5	5.5	1	1	4.70
St. Lawrence,	44.33	36.57	53	27	31	.5	15.5	1.5	1.5	1	4	3.5	2.5	4	26	7.5	1.5	...	3.97
Union,	42.71	34.67	60	22	38	2	10.5	4.5	5.5	2	1.5	3.5	.5	9.5	20.5	4	...	.5	4.60
Union-Hall,	50.43	45.94	67	27	40	...	16.5	...	3.5	...	5	...	5	11	19	15.5	...	...	5.45
Utica,	47.96	41.06	62	29	33	...	...	12.5	6.5	...	5	6	...	18	12	7	1	...	6.53
Washington,	47.72	41.10	64	27	37	...	...	...	...	...	...	...	...	4.5	25.5	2	2	1	...
Seminary of Genesee & Oneida Con.	47.06	38.21	69	25	35	.5	1	6	3	8.5	3.5	3.5	4	7.5	22.5	3	2	.5	4.86

DECEMBER, 1830.

DECEMBER, 1880, (Continued.)

[S. No. 50.]

ACADEMIES.	THERMOMETER.				WINDS, (NO. OF DAYS.)								WEATHER, (NO. OF DAYS.)					Rain Gage.	
	Mean temperature.		Range.	Lowest degree.	Highest degree.	North.	N. East.	East.	S. East.	South.	S. West.	West.	N. West.	Clear.	Cloudy.	Rain.	Snow.		Rain & Snow.
	1st half.	2d half.																	
Plattsburgh,.....	31.00	28.50	45	2	47	2.5	1.5	.....	3.5	11.5	4	8	3.5	11.5	19.5	4	1.5	.....	2.78
Pompey,	28.58	25.44	43	3	51	1	.....	.....	1.5	6	9.5	9	2	3	23	2	5	.....	1.97
Redhook,	34.06	32.47	63	8	55	6.5	5.5	.....	1.5	10	1.5	3	2.5	12	19	6.5	3	.....	4.83
Rochester High School,.....	35.24	30.19	43	12	55	1	1	3.5	1.5	5.5	3.5	14	1	3	23	1.5	2.5	.....	2.12
St. Lawrence,.....	23.54	24.35	63	12	51	1.5	4.5	1	.....	6.5	3.5	4.5	3	9	22	3	4	.....	2.85
Union,	27.00	23.76	54	3	51	1	7	1	1	6.5	2.5	6.5	5.5	6	25	2	4	.....	1.18
Union-Hall,	33.94	33.81	43	10	53	.....	4.5	3	2.5	.....	3.5	1	16	17.5	13.5	7.5	1	.....	6.50
Utica,	33.24	29.20	58	4	54	.....	.....	8.5	.5	.....	2.5	19.5	.....	16.5	14.5	6	6	.....	2.84
Washington,	33.18	30.89	52	4	56	.....	.....	.....	.....	.....	.....	.....	.....	4.5	26.5	4	.....	.....	.....
Seminary of Genesee & Oneida Cos.	31.76	27.55	47	6	53	.....	.....	.....	1	10.5	6.5	.....	11	2.5	28.5	1.5	2.5	1.5	3.27

or Seminary of Genesee & Oneida Cos.

RECAPITULATION AND RESULTS, No. 1.

RECAPITULATION AND RESULTS, No. 1, (*Continued.*)

RESULTS, No

September.	October.	N. West.	Prevailing Wind.
NW.	NW.	104	Northwest.
SW.	SW.	68½	South.
N.	S.	58	South.
W.	W.	.....	.....
S&W.	S.	25½	West.
S.	S.	82	South.
W&S.	W.	82	West.
NE.	SW.	62½	Northwest.
S.	S.	.....	.....
SW.	SW.	76	Southwest.
SE.	SW.	104½	Northwest.
NW.	W.	.....	West.
S.	S.	63½	West.
W.	SE.	22½	West.
SW.	W.	.....	.....
NW.	SW.	148½	Northwest.
S.	S.	77	South.
N.	N.	81	North.
NW.	SE.	97½	Northwest.
.....	W.	.....	West.
N.	S.	96½	South.
NE&S.	S.	76	Northwest.
S.	S.	27½	South.
NE.	SW.	.....	.....
NW.	N.	120½	Northwest.
SW.	SW.	50	Southwest.
N.	S.	4½	South.
NW.	NW.	.....	.....
.....
NE.	NE.	94	Northwest.
SW.	SW.	48½	Southwest.
S.	N.	.....	.....
W.	SW.	76	Southwest.
N&S.	S.	20	South.
SW&W.	N&SW.	64	West.
SW.	SW.	63	Southwest.
S.	S.	89	South.
NW.	NE.	184½	Northwest.
W.	W.	2	West.
SW.	SW.	.....	Southwest.
NW.	NW.	188	Northwest.

RESULTS, No

			Prevailing Wind.
			Northwest.
			South.
			South.
			West.
			South.
			West.
			Northwest.
			Southwest.
			Northwest.
			West.
			West.
			West.
			Northwest.
			South.
			North.
			Northwest.
N.	W.	96½	West.
NE&S.	S.	78	South.
S.	S.	27½	Northwest.
NE.	SW.		South.
NW.	N.	120½	Northwest.
SW.	EW.	50	Southwest.
N.	S.	4½	South.
NW.	NW.		
NE.	NE.	84	Northwest.
SW.	SW.	48½	Southwest.
S.	N.		
W.	EW.	78	Southwest.
N&S.	E.	20	South.
SW&W.	N&SW.	64	West.
SW.	SW.	68	Southwest.
S.	S.		South.
NW.	NE.	134½	Northwest.
W.	W.	2	West.
SW.	SW.		Southwest.
NW.	NW.	188	Northwest.

RECAPITULATION AND RESULTS, No. 8.

RECAPITULATION AND RESULTS, No. 3, (Continued.)

RECAPITULATION AND RESULTS, No. 4.

COMPARISON OF THE WARMEST AND COLDEST DAY IN EACH MONTH.

ACADEMIES.	January.		February.		March.		April.		May.		June.		July.		August.		September.		October.		November.		December.	
	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	Warmest.	Coldest.	
Albany,.....	30	16	6	20	9	30	8	20	24	5	15	9	21	28	7	17	17	13	26	1	29	1	22	8
Auburn,.....	30	8	6	20	9	30	8	30	25	4	28	28	9	21	26	7	17	5	3	2	25	9	22	8
Cambridge, Washington,.....	30	8	6	21	9	30	8	30	16	5	28	28	1	17	25	8	17	8	30	3	30	3	22	25
Canajoharie,.....	30	16	6	25	9	21	8	30	7	5	16	16	8	21	26	28	17	24	2	16	15	22	25	
Canandaigua,.....	30	3	5	10	9	30	2	30	26	4	14	14	5	26	27	23	23	5	12	15	15	22	3	
Cayuga,.....	30	14	5	21	9	30	3	30	6	4	9	16	9	24	28	23	17	6	27	16	16	23	25	
Cherry-Valley,.....	30	8	6	20	9	21	3	30	21	5	8	16	29	19	26	7	17	6	12	23	23	23	25	
Clinton,.....	30	10	6	20	9	22	13	20	11	30	1	15	29	17	26	12	18	24	2	27	16	22	2	
Cortland,.....	31	2	7	20	2	30	18	30	17	5	21	17	9	21	26	23	17	6	16	24	4	22	2	
Dutchess,.....	30	16	6	20	9	22	1	22	11	14	2	17	12	20	26	23	29	1	1	30	1	22	31	
Erasmus-Hall,.....	30	8	11	23	9	30	3	13	14	5	4	15	23	21	26	23	18	7	2	26	1	22	31	
Fairfield,.....	30	14	5	20	9	21	3	30	22	4	21	27	12	21	26	23	17	13	8	25	20	22	25	
Franklin,.....	30	3	5	19	8	20	2	30	6	4	9	15	13	26	25	7	28	5	27	15	15	22	2	
Fredonia,.....	30	3	5	19	8	20	2	30	6	4	20	15	13	26	25	7	28	5	27	15	15	22	2	
Gouverneur High School,.....	30	3	6	20	4	30	3	21	22	4	21	15	9	21	26	23	17	6	23	12	12	22	3	
Hamilton,.....	30	2	7	21	19	21	3	30	22	1	21	17	11	21	26	23	17	6	23	10	10	22	31	
Hartwick,.....	30	2	7	20	9	22	3	30	22	1	21	17	10	24	26	23	17	6	23	16	16	22	31	
Hudson,.....	30	2	7	20	9	22	3	30	22	4	21	15	10	24	26	23	18	6	23	1	1	22	31	
Ithaca,.....	30	16	6	20	9	22	3	30	22	4	21	16	13	21	26	23	17	6	23	1	1	22	31	
Johnstown,.....	30	16	6	20	9	22	3	30	22	4	21	16	13	21	26	23	17	6	23	1	1	22	31	
Kinderhook,.....	30	16	6	20	9	22	3	30	22	4	21	16	12	21	26	23	18	6	23	1	1	22	31	
Kingston,.....	30	7	7	20	9	22	4	30	22	4	21	16	11	21	26	23	18	6	23	1	1	22	31	
Lansingburgh,.....	30	16	7	20	9	22	3	30	10	5	21	16	12	21	26	23	18	6	23	1	1	22	31	
Lewiston,.....	30	16	7	20	9	22	3	30	6	4	22	16	11	21	26	23	18	6	23	1	1	22	31	
Lowville,.....	30	8	6	20	9	22	3	30	7	4	22	16	11	21	26	23	18	6	23	1	1	22	31	
Middlebury,.....	30	16	6	20	8	30	2	30	21	4	21	16	12	21	26	23	17	5	25	2	9	22	31	
Montgomery,.....	30	2	7	21	9	30	11	30	17	5	21	17	12	20	26	23	17	7	27	17	17	22	31	

RECAPITULATION AND RESULTS, No. 4; (Continued.)

Mount-Pleasant,.....	30	8	6	20	9	23	0	22	7	14	1	17	12	2	25	17	25	8	18	7	26	19	30	1	23	51
Newburgh,.....	30	7	6	20	9	30	1	22	22	14	20	15	8	25	16	16	23	8	16	22	16	30	16	21	21	51
North-Salem,.....	30	16	13	20	4	30	0	30	7	4	8	15	9	21	26	26	23	3	17	6	26	2	30	9	22	51
Oxford,.....	30	15	6	20	9	30	8	30	7	4	8	15	9	21	26	26	23	3	17	6	26	2	30	9	22	51
Plattsburgh,.....	30	15	6	20	9	30	8	30	7	4	8	15	9	21	26	26	23	3	17	6	26	2	30	9	22	51
Pompey,.....	30	16	7	20	9	30	8	30	7	4	8	15	9	21	26	26	23	3	17	6	26	2	30	9	22	51
Redhook,.....	30	8	7	10	8	20	2	20	22	4	12	15	9	21	26	26	23	3	17	6	26	2	30	9	22	51
Rochester High School,.....	30	3	7	20	9	21	3	21	6	4	21	15	13	20	21	26	23	3	17	6	26	2	30	9	22	51
St. Lawrence,.....	30	3	6	20	9	21	3	21	9	4	8	15	9	21	26	26	23	3	17	6	26	2	30	9	22	51
Union,.....	30	20	6	20	9	30	1	30	7	4	20	23	9	21	26	26	23	3	17	6	26	2	30	9	22	51
Union-Hall,.....	30	3	6	20	9	30	11	22	10	14	4	15	1	24	26	26	23	3	17	6	26	2	30	9	22	51
Utica,.....	30	16	6	20	9	30	3	30	22	4	8	15	9	21	26	26	23	3	17	6	26	2	30	9	22	51
Washington,.....	30	14	7	20	13	23	4	21	10	4	1	16	10	21	26	26	23	3	17	6	26	2	30	9	22	51
Seminary Gen. & O. Con...	30	16	6	20	6	30	3	30	7	4	8	15	9	21	26	26	23	3	17	6	26	2	30	9	22	51

RECAPITULATION AND RESULTS, No. 5, (Continued.)

COMPARISON OF THE RANGE IN EACH MONTH.

St.	May.		June.		July.		August.		September.		October.		November.		December.	
	Lowest.	Highest.	Lowest.	Highest.	Lowest.	Highest.	Lowest.	Highest.	Lowest.	Highest.	Lowest.	Highest.	Lowest.	Highest.	Lowest.	Highest.
Mount-Pleasant,	32	80	47	96	54	96	54	91	36	80	73	64	31	56	11	56
Newburgh,	33	78	46	93	51	93	56	88	36	78	77	76	34	56	8	56
North-Salem,	26	82	46	97	55	97	48	90	35	81	78	70	24	56	-10	56
Oxford,	27	81	45	93	50	93	44	83	35	77	71	63	31	57	-2	57
Plattsburgh,	27	79	46	90	53	90	48	81	54	73	69	57	39	47	2	47
Pompey,	27	82	46	90	53	90	48	86	41	79	68	61	34	51	3	51
Redhook,	30	84	46	93	54	93	48	86	40	74	78	67	31	53	8	53
Rochester High School,	31	86	45	96	51	96	48	85	39	80	80	68	30	53	-12	53
St. Lawrence,	23	86	45	90	51	90	48	85	30	73	72	68	27	51	-12	51
Union,	23	86	45	90	51	90	48	85	30	73	72	68	27	51	-12	51
Union-Hall,	22	86	45	90	51	90	48	85	30	73	72	68	27	51	-12	51
Utica,	21	83	43	88	50	88	44	86	31	79	69	67	29	53	-10	53
Washington,	23	80	45	88	51	88	47	86	30	79	69	64	27	54	-4	54
Seignior Gen. & O. Co.,	25	75	46	91	51	91	49	89	30	75	73	60	25	58	6	58

LANEC

	Hartwick.	Rochester.	St. Lawrence.	Union.	Union-Hall.	Utica.	Washington.	Cazenovia.
First								
Lila		April 20.	March 21.	.....	March 7.	March 21.	May 1.	May 1.
Robt.					May 8.	May 1.	May 3.	May 6.
Barr			April 1.		.....	March 19.	.....	March 20.
Blue					March 25.	March 29.	.....	April 30.
Daff 21.						March 17.	.....
Pea 21.							.....
App		April 21.						
Hys	May 1.		May 4.	May 1.	May 2.	May 2.	April 30.	May 7.
Sha								
Pige 26.		April 22.	April 21.					
Fro								
Curt 31.			April 3.		March 19.		April 4.	April 6.
Pea 23.		April 24.			April 18.	April 21.	April 22.	April 27.
Quil					April 26.	May 4.		
Loc								
Red								
Plan						June 28.		
Che 30.	April		April 24.	April 30.		April 22.	April 23.	April 29.
Str	May 1.				April 22.	May 8.		
Fire		June 10.			June 8.	June 9.		June 28.
Hay								
Wh					June 22.	June 30.		July 15.
Rye				August 1.	July 10.	June 28.		July 30.
Gre						June 22.		
Gre	June				June 8.			July 4.
Che at 8.	August			August 11.		June 31.		
Blac				July 7.	June 10.	July 17.		July 9.
Fire t 10.						July 18.		



MISCELLANEOUS OBSERVATIONS, No 2.

(ATMOSPHERICAL PHENOMENA, &c.)

AURORA BOREALIS NOTICED.

January 24, at *Canajoharie academy, Utica.*

January 27, at *Lowville.*

February 16, at *Pompey.*

February 18, at *Pompey, St. Lawrence, Utica, Cazenovia.*

February 19, *Albany, Canajoharie, Delaware, Kinderhook, North-Salem, Pompey, Utica.*

February 23, at *Canajoharie.* Segment large and luminous. Light in the west at half past 8, like twilight, *Lowville, North-Salem, Utica.*

March 15, at *Albany, Canajoharie.* Exhibiting the appearance of day break half an hour before sunrise, *Franklin, Lowville, Middlebury, Pompey, St. Lawrence*: Very brilliant, *Utica, Cazenovia.*

March 16, *Union.*

March 28, *Albany, Pompey.*

March 31, at 10 P. M. a single column of light, a little west of north, extending up at right angles with the horizon, and subtending an angle of about 25 degrees, *Franklin.*

April 15, at *Albany, Lowville, Pompey, St. Lawrence, Utica.*

April 19, from 8 P. M. till nearly midnight, the whole northern horizon presented at times, streams of light, which rose, enlarged and disappeared in succession, sometimes extending almost to the zenith; at others, rising only a few degrees and usually succeeded by a dark hazy appearance. The light from this source was sometimes as much as the moon affords, three or four days after conjunction, *Auburn.* Very brilliant, *Cambridge, (Washington,) Canajoharie, Cayuga.* At 9 P. M. a broad column of light, perpendicular to the horizon, and extending up about 45 degrees; the whole was so brilliant that the shadows of objects were distinctly seen on the north side of buildings. About midnight it was still more brilliant, *Franklin.* Brilliant, *Hudson, Lansingburgh.* Nearly one-third of the horizon illuminated during the night. The highest part of the illuminated segment extending to the height of 45 degrees; lively coruscations and various hues of great beauty, especially a reddish tinge of vast extent, which appeared at 9 o'clock, *Lowville.* Very brilliant: *Oxford, Pompey, Rochester, Union, Cazenovia.* Very beautiful with high coruscations, *Utica.*

April 20, brilliant: *Cayuga, Delaware, Kinderhook.*

April 21, at *Canajoharie.*

April 25, at *Rochester.*

April 28, at *Lowville.*

May 2, brilliant, 40 degrees above the horizon, 8 P. M., *Lewiston, St. Lawrence.*

May 4, at 10 P. M. at *Auburn, Lansingburgh, Lowville, Oxford, Pompey, St. Lawrence.* Very bright, *Utica.*

May 9, at *Canajoharie, Hartwick.*

May 10, at *Kinderhook.*

May 11, at *St. Lawrence.*

May 13, at *Delaware.*

May 14, at *Canajoharie, Hartwick, Pompey, St. Lawrence, Utica.*

May 15, at *Delaware, Kinderhook, St. Lawrence, Union, Cazenovia.* Very bright, *Utica.*

May 19, at *Fredonia.*

May 22, at *Union.*

June 9, at *Middlebury.*

June 10, between 8 and 9 P. M. an arc across the heavens, *Albany.* Very brilliant, and continued all night, *Auburn.* Luminous arch, *Canajoharie.* Very brilliant, *Erasmus-Hall, Fredonia, Hartwick.* A very splendid A. B.; the light so bright as to cast distinct shadows, *Mount-Pleasant, Kinderhook.* Very brilliant: *Lewiston.* Very beautiful, and extending from the east to the west and widening to the north horizon, *Lowville.* A beautiful arch, *Oxford, Pompey, St. Lawrence.* Uncommon A. B.: *Utica.*

June 11, splendid arch, *Dutchess, St. Lawrence, Utica.*

June 16, at *St. Lawrence.*

June 17, at *Hudson.*

June 18, at *Lewiston, Utica.*

June 29, at *Hartwick, Delaware.*

July 7, at *Lewiston.*

July 14, at *Albany, Canajoharie, Franklin.* Bright luminous arch a little south of the zenith, from E. to W., descending to the south, *Hartwick, Delaware.* At 10 o'clock very bright, *Ithaca.* Very brilliant, *Lansingburgh, Ibid: Lowville, Middlebury, Union-Hall, Utica.*

July 15, at *Erasmus-Hall.* Noticed between 8 and 12 P. M. At first resembling a bright cloud in the form of the segment of a circle; the crown being about 30 degrees above the horizon, exhibiting for several hours a steady light. About 12 it rose in distinct and brilliant spires, shooting towards the zenith. From 9 to 10 were seen occasionally, beams of light shooting from two points, a few degrees east and west of the luminous segment, uniting and forming a belt at right angles with the galaxy, and resembling it in width and appearance, except much more luminous. This moved towards the south, and after passing the zenith, separated and disappeared, *Fredonia.*

July 21, at *Lowville.*

July 28, at *Fredonia*.

August 8, at *Lewiston*.

August 10, at *Pompey, Utica*.

August 11, at *Franklin*.

August 12, at *Auburn, Utica*.

August 13, at *Auburn, Hamilton*.

August 19, at *Pompey, Union, Cazenovia*. Uncommonly beautiful, *Utica*.

August 20, at *Lowville, Pompey, Cazenovia, Utica*. On the evening of the 20th the Aurora Borealis presented an unusual appearance. At half past 9 the flashes of light, apparently proceeding from a dense cloud in the horizon, shot up very high in forms resembling pencils of rays. At 10, a broad arch, resting in the horizon, in nearly the western point, rose between Arcturus and Ursa Major, and extending over the whole heavens, a little north of the zenith, terminated about 20 degrees above the eastern horizon. Between this arch and the polar star, stood a row of perpendicular columns of light, with uniform bases, in a right line from Arcturus, to the polar star. There were sixteen pillars on the inside of the arch, and one on the outside, below Arcturus. They maintained their position for nearly half an hour, and gradually ascending, in the same regular order, grew fainter and disappeared. The flashes in the horizon still continued very light, but not distinctly defined, *Utica*.

August 21, at *Hamilton*.

August 25, at *Lowville, St. Lawrence*.

August 26, continued all night, *Auburn, Lowville, Pompey, Rochester, Union, Utica*.

August 28, at *Hartwick*.

August 29, at *Rochester*.

September 5, at *Rochester*.

September 7, low but regularly arched, not above 20 degrees above the horizon at 8 o'clock, but by the interposition of vapour between the top of the arch and the horizon, forming a perfect segment of a circle at half past 8, two very bright lights, extending from the top of the arch to 50 degrees, *Lewiston*.

September 9, at *Fredonia, Utica*.

September 10, at *Utica*.

September 11, at *St. Lawrence*.

September 15, at *Albany*. Very brilliant, in columns springing from an arch with prismatic colours, resembling those produced by finely striated metal, *Pompey*.

September 16, at *North-Salem*.

September 17, at *Pompey, St. Lawrence, Utica*.

October 5, at *Utica*.

October 6, at *Auburn, Canajoharie*. Brilliant, *Lowville, North-Salem, Plattsburgh, Pompey, St. Lawrence, Utica*.

October 7, at *Auburn, Canajoharie, North-Salem, Pompey, St. Lawrence, Union, Utica*.

October 8, *North-Salem.*

October 9, at *Auburn, Fredonia.*

October 10, at *Fredonia, Lowville.*

October 11, at *Utica.*

October 13, at *Hartwick.*

October 14, at *Pompey, Utica.* Very brilliant, *St. Lawrence.*

October 15, at *Lowville.*

October 16, at *Lowville.*

October 17, at *Lowville, Pompey, Utica.*

October 27, at *Auburn.*

October 28, at *Fredonia, Pompey.* Very brilliant over the whole north, and extending to the zenith, and there having a fiery red appearance. Large red belts were occasionally seen streaming from the west, towards the zenith and extending in one instance nearly to the east, spanning the chord of an arc of about 160 degrees, and about 8 or 10 degrees broad, *St. Lawrence, Union.*

November 9, at *Pompey.*

November 19, at *Hartwick.*

November 20, very brilliant, *Canandaigua, Fredonia, Middlebury, Pompey, Utica.*

November 21, at *Canandaigua.*

December 6, at *Cazenovia.*

December 7, at *Lowville.* Very brilliant, *Plattsburgh, Pompey, Utica.*

December 10, very brilliant, *Dutchess, Hartwick, Plattsburgh.*

December 11, The following description gives but a faint, although generally correct, idea of the splendid appearance observed this evening, between 9 and 10 o'clock :

“Early on Saturday evening an Aurora appeared in the north, stretching round from seven to eight points of the compass, and from nearly north-west to nearly north-east. The principal light was as usual in the form of an arch, the centre of which was directly under the north star. There was a general suffusion of light over the arch, and extending twenty or thirty degrees above it. The space beneath the arch, in the early part of the evening, was filled with a dark cloud. At about $\frac{1}{2}$ past 6 o'clock a row of bright pillars or columns rose from the arch, and extended to a great height above it, and some of them nearly as high as the north star; those over the north-western limb of the arch were slightly tinged with redness, and all the others were perfectly white. These pillars or columns soon disappeared and were succeeded by others; they generally rose over one limb of the arch first, and gradually extended to the other. Between six and seven o'clock, the dark cloud beneath the arch, rose and spread over a great part of the sky, and for some time entirely obscured the Aurora. At about

eight o'clock some clouds had passed away, and a considerable portion of the upper part of the northern sky had become clear again, and a row of bright white pillars or columns rose from or through the dark clouds beneath, and extended far beyond the north star.— These pillars or columns remained but a short time, and the whole northern sky was again obscured by other clouds, and so continued through the greater part of the night. Through the intervals between the clouds or the thin places in them, the light of the Aurora was frequently seen in bright white spots over the northern part of the sky. The Aurora continued throughout the night, and between three and five o'clock on Sunday morning, the sky had become clear and the Aurora was quite bright," *Albany*. Very brilliant: *Auburn*. Do. *Dutchess*. Very brilliant, illuminating the horizon and issuing several perpendicular columns, extending in a direction towards the zenith, from 15 to 20 degrees. The appearance was not unlike that occasioned by a very extensive conflagration in the city of New-York, *Erasmus-Hall*, *Hartwick*. Very brilliant: *Lansingburgh*, *Lewiston*. There appeared two ranges in the north, one above the other, and though irregular, yet in their main direction, parallel, and resembling two sublime ranges of mountains, with dark sides and slight summits of immense height, from which the brilliant coruscations, were by the imagination, easily converted into volcanoes. In the horizon, the light extended from the south-east, almost to the west, and the currents and flashes of light rose from the north horizon to the zenith, and thence descended half way to the south horizon, *Lowville*, *North-Salem*, *Plattsburgh*, *Rochester*. Very brilliant, *St. Lawrence*, *Union*, *Utica*.

December 12, very brilliant, *Auburn*. Do. *Dutchess*, *Franklin*, *Fredonia*. Do. *Ithaca*, *Lansingburgh*, *Lewiston*, *Middlebury*, *North-Salem*, *Plattsburgh*, *Pompey*, *St. Lawrence*, *Utica*.

This year has been remarkable for the frequency, and often the brilliancy of the Aurora Borealis. In every instance, so far as observations have been made at this place, the phenomenon has presented a dark, dense and regularly defined cloud, lying in the northern horizon, and extending far to the east and west, apparently a ground work from which the light proceeds. On some evenings this cloud is above the horizon at the first appearance of the flashes of light; in others it is not visible until after the light has been observed for some hours, and when the flashes have

continued late in the night, the cloud ascends above the horizon and the brilliancy of the light diminishes. In one instance, on the evening of the 11th of December, after the cloud had risen ten or fifteen degrees above a clear horizon, a second cloud appeared, from which the flashes of light were distinctly seen shooting to the upper one, *Utica*.

HALOES, &c.

- February 9. Halo round the moon, *Auburn, Cazenovia*.
 February 28. Large well defined halo round the moon, *Kinderhook, Union-Hall*.
 March 1. Circle round the moon, *Albany, Utica*.
 March 11. Bright parhelion about 10 degrees north of the sun at 7 A. M., *Erasmus-Hall*.
 March 25. Halo seen distinctly round the sun in the middle of the day, about 15 degrees from it, *Auburn*.
 March 29. Lunar halo, *Lewiston*. Ibid. *Pompey*. Ibid. *Utica*.
 April 7. Lunar halo, *Pompey*.
 April 12. A beautiful rainbow at sunrise, *Auburn*.
 April 28. Circle round the moon, *Utica*.
 May 1. Luminous halo about the moon, *Lewiston*.
 May 8. Lunar halo, *Pompey*. Circle round the moon, *Utica*.
 May 23. Lunar halo between 9 and 10 P. M., *Lewiston*.
 May 28. Two haloes round the sun, N. and S., *Erasmus-Hall*.
 May 30. Two mock suns at 4 P. M., *Franklin*.
 June 14. Brilliant rainbow seen in the morning, which appeared even in the west, *North-Salem*.
 July 5. Lunar bow in the evening, *Lansingburgh*.
 July 17. At 5 P. M. a halo observed about 20 degrees north of the sun. It was an arc of a circle, about 10 degrees in length, presenting the appearance of a rainbow; the red being next to the sun, *Fredonia*.
 July 29. Lunar bow in the north, *Cazenovia*.
 August 26. Halo round the sun, *Cazenovia*.
 September 10. Lunar halo, *Lewiston*.
 November 28. Lunar halo, *Canajoharie*. Bright circle round the moon, *Utica*.
 December 23. A large circle round the moon, *Kinderhook*.
 December 24. Beautiful rainbow at sunrise, *Canandaigua*.

METEORS.

- June 15. A beautiful meteor seen in the evening, *Lansingburgh*.
 July 15. A brilliant meteor noticed about 9 P. M., *Fredonia*.
 September 17. A bright meteor seen, *Hudson*.

TEMPERATURE OF WELLS.

- August 7. At 3 P. M. the thermometer suspended .13 feet below the surface of a well 22 feet deep, stood at 52 deg., *Fredonia*.

- August 7. At 3 P. M. the thermometer suspended in a well, at 18 feet below the surface, stood at 50 degrees. The well is 24 feet deep. August 20, again suspended at 18 feet, (11 A. M.) stood at 52 degrees. In the afternoon of the same day, stood at 51. At each experiment it remained in about 25 minutes : *North-Salem*.

WEATHER.

- January 3. A very heavy clap of thunder followed by rain at 9 P. M. : *Albany*. Heavy thunder with lightning in the night : *Cambridge*. Loud thunder and lightning : *Cherry-Valley*. Sharp and repeated lightning with thunder : *Hamilton*. Thunder and lightning with rain : *Hartwick*. Ibid : *Lansingburgh*. Ibid : *Oxford*. Ibid : *Ponpey*. Ibid : *Utica*.
- January 10. At evening one or two flashes of lightning, but no thunder : *Kinderhook*.
- January 28. Water 12 feet beneath the surface of the earth, in a well, frozen over : *Lowville*.
- December 31. A heavy thunder shower with sharp lightning, with an abundance of rain : *North-Salem*. Thunder with rain : *Oxford*.
- May 10, 22. Severe frost that killed vegetables : *Albany*. 9, 10, 23. Severe frost : *Cambridge*. 10. Do. : *Canajoharie*. 9, 21. Do. : *Canandaigua*. 10, 23. Do. : *Cherry-Valley*. 22. Do. On the 26th the thermometer at 4 A. M. stood at 24 ; ice $\frac{1}{2}$ inch thick : *Franklin*. 24. Frost sufficient to wither leaves of Indian corn : *Fredonia*. 9, 22. Severe frost : *Hamilton*. 10, 22. Ibid : *Ithaca*. 10, 23. Ibid : *Kinderhook*. Ibid : *Lansingburgh*. 9, 20. Ibid : *Lowville*. 8, 24. Ibid : *Middlebury*. 22. Ibid : *Oxford*. 10. Ibid : *Union-Hall*. 13. Ibid : *Washington*. 22. Ibid : *Cazenovia*. 9, 21. Ibid : *Utica*.

We remark, that after the frost in September, vegetation appeared to have undergone a total change. The buds which were chilled with the cold, started forth with renewed vigour. Several trees were seen in full bloom in *November*, and what is most remarkable, a pear tree in our immediate neighborhood, was laden with its second crop, which grew to a considerable size, at least half the size of the same species of fruit when matured. A second crop of peas and beans which had been accidentally spilled on the ground, grew to their full size : *Erasmus-Hall*.

- December 4. Marigolds in full blossom, and mustard plants six inches high, green and thrifty : *St. Lawrence*.

QUANTITY OF SNOW.

<i>Canandaigua.</i>		<i>Canajoharie.</i>	
January	14 inches.	January	7.50 inches.
February	6 "	February	3 "
March	7 "	March	0.20
<hr/>		<hr/>	
27		10.70	

<i>Cazenovia.</i>	
January	12 inches.
February	21 "
March	8 "
<hr/>	
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RIVER HUDSON.

January 11, closed for the first time this season. March 15, opened. December 23, river closed. December 27, opened again: *Albany*. January 26, closed at Poughkeepsie. March 1, opened. December 24, closed. December 29, open again: *Dutchess*. January 9, river closed. March 14, opened: *Hudson*. River closed January 9, and opened March 14; closed December 22; opened the 26th: *Lansingburgh*.

ERIE CANAL.

April 19, Canal navigation commenced: *Utica*. Dec. 17, canal frozen over for the first time this season: *Utica*. April 20, canal navigable: *Canajoharie*.

RIVER MOHAWK.

March 18, ice broken up: *Canajoharie*. March 18, river clear of ice: *Utica*.

LAKE ERIE.

April 11, first vessel passed down the lake to Buffalo, making its way through huge bodies of ice. April 15, Lake Erie free of ice at Dunkirk. Dec. 31, Lake Erie not frozen: *Fredonia*.

CHAUTAUQUE LAKE.

April 15, Clear of ice: steam-boat first passed through: *Fredonia*.

VARIATION OF THE COMPASS.

June 14, at 6½ A. M. 6 deg. 18 min. west: *Albany*.

BAROMETRICAL OBSERVATIONS.

Made three times a day, Morning, Afternoon and Evening.

1830.	MEANS.		
MONTHS.	1st. half.	2d. half.	Whole.
January,.....	30.14	30.15	30.14
February,.....	30.22	30.14	30.18
March,.....	30.28	30.26	30.27
April,.....	30.18	30.30	30.24
May,.....	30.18	30.13	30.15
June,.....	30.04	30.07	30.05
July,.....	30.12	30.22	30.17
August,.....	30.04	30.20	30.10
September,.....	30.18	30.26	30.22
October,.....	30.21	30.29	30.25
November,.....	30.16	30.18	30.17
December,.....	30.08	30.24	30.16

Annual mean, 30.17 : *Erasmus-Hall.*

CAYUGA LAKE

Lies nearly north and south. Aurora is 12 miles from the outlet, and 28 miles from the head of the lake. Opposite the village it is about four miles wide, and so deep in this place as never to freeze over. The winds are most commonly up and down the lake. The thermometer, by exact computation, is found in the winter season to stand from 2 deg. to 4 deg. higher at the distance of $2\frac{1}{2}$ miles east from the lake, than in the village, at the place of observation : *Cayuga.*

A CATALOGUE OF PLANTS

Growing spontaneously in the vicinity of North-Salem Academy.

- | | |
|-------------------------------------|---|
| 1 <i>Acalypha virginica</i> , | 42 <i>Anthemis cotula</i> , |
| 2 <i>caroliniana</i> , | 43 <i>arvensis</i> , c. |
| 3 <i>Acer rubrum</i> , | 44 <i>Anthoxanthum odoratum</i> , |
| 4 <i>saccharinum</i> , | 45 <i>Antirrhinum linaria</i> , 10. |
| 5 <i>nigrum</i> , 11. | 46 <i>canadense</i> , |
| 6 <i>dasycarpum</i> , 2. | 47 <i>Apios tuberosa</i> , |
| 7 <i>Achillea millefolium</i> , | 48 <i>Aplectrum hyemale</i> , 9. |
| 8 <i>Acorus calamus</i> , | 49 <i>Apocynum androsaemifolium</i> , |
| 9 <i>Actea rubra</i> , 15. | 50 <i>cannabinum</i> , |
| 10 <i>alba</i> , | 51 <i>Aquilegia canadensis</i> , |
| 11 <i>Agrimonia eupatoria</i> , | 52 <i>Arabis rhomboidea</i> , |
| 12 <i>Agropyron repens</i> , | 53 <i>levigata</i> , |
| 13 <i>Agrostemma githago</i> , | 54 <i>sagittata</i> , |
| 14 <i>Agrostis alba</i> , | 55 <i>thaliana</i> , |
| 15 <i>vulgaris</i> , &c. | 56 <i>lyrata</i> , 1. |
| 16 <i>Alisma plantago</i> , | 57 <i>canadensis</i> , |
| 17 <i>parviflora</i> , | 58 <i>Aralia racemosa</i> , |
| 18 <i>subulata</i> , | 59 <i>nudicaulis</i> , |
| 19 <i>Allium canadense</i> , n. | 60 <i>hispida</i> , 3. |
| 20 <i>vineale</i> , c. | 61 <i>Arctium lappa</i> , |
| 21 <i>Alnus serrulata</i> , | 62 <i>Arenaria lateriflora</i> , c. |
| 22 <i>Amaranthus albus</i> , | 63 <i>serpyllifolia</i> , |
| 23 <i>oleraceus</i> , | 64 <i>peploides</i> , 1. |
| 24 <i>hybridus</i> , | 65 <i>rubra</i> , 1. |
| 25 <i>hypochondriacus</i> , c. n. | 66 <i>Arethusa bulbosa</i> , |
| 26 <i>Ambrosia trifida</i> , | 67 <i>Aristolochia serpentaria</i> , n. |
| 27 <i>elatior</i> , | 68 <i>Aronia botryopium</i> , |
| 28 <i>Ampelopsis quinquefolia</i> , | 69 <i>melanocarpa</i> , c. |
| 29 <i>Amphicarpa comosa</i> , | 70 <i>Artemisia absinthium</i> , c. |
| 30 <i>monoica</i> , | 71 <i>Arum dracontium</i> , 2. |
| 31 <i>Anagallis arvensis</i> , 1. | 72 <i>tryphyllum</i> , |
| 32 <i>Andromeda paniculata</i> , | 73 <i>Asarum canadense</i> , |
| 33 <i>calyculata</i> , | 74 <i>Asclepias syriaca</i> , |
| 34 <i>polifolia</i> , 3. | 75 <i>pulchra</i> , n. |
| 35 <i>Andropogon furcatus</i> , | 76 <i>obtusifolia</i> , |
| 36 <i>Anemone virginica</i> , | 77 <i>phytolaccoides</i> , |
| 37 <i>aconitifolia</i> , n. | 78 <i>incarnata</i> , |
| 38 <i>nemorosa</i> , | 79 <i>pauciflora</i> , |
| 39 <i>thalictroides</i> , | 80 <i>quadrifolia</i> , |
| 40 <i>Angelica triquinata</i> , c. | 81 <i>tuberosa</i> , |
| 41 <i>atropurpurea</i> , c. | 82 <i>Asparagus officinalis</i> , c. |

- 83 *Atragene americana*, 6.
 84 *Atriplex arenaria*, 1.
 85 *laciniata*, 1.
 86 *Atropa physalodes*, 10.
 87 *Azalea nudiflora*,
 88 *viscosa*, c. 3, &c.
 89 *glauca*, c. 3, &c.
 90 *nitida*, n.
 91 *Baptisia tinctoria*,
 92 *Barbarea vulgaris*, c. 2.
 93 *Bartonia paniculata*, A. 3.
 94 *Betula populifolia*,
 95 *excelsa*,
 96 *lenta*.
 97 *Bidens cernua*,
 98 *minima*,
 99 *chrysanthemoides*,
 100 *frondosa*,
 101 *connata*,
 102 *bipinnata*,
 103 *Bignonia radicans*, m.
 104 *Blitum capitatum*, n.
 105 *Brassica napus*, w.
 106 *Boehmeria lateriflora*, 9.
 107 *Bromus secalinus*,
 108 *mollis*,
 109 *Bunias edentulata*, 1.
 110 *Bupleurum rotundifolia*, c.
 111 *Cactus opuntia*, 6, &c.
 112 *Callitriche verna*,
 113 *autumnalis*, n.
 114 *Caltha palustris*,
 115 *Campanula amplexcaulis*,
 116 *ericoides*,
 117 *Cannabis sativa*, 10.
 118 *Cardamine pensylvanica*,
 119 *gracilis*,
 120 *teres*, n.
 121 *Carpinus americana*,
 122 *Carya tormentosa*,
 123 *amara*, n.
 124 *porcina*,
 125 *alba*,
 126 *sulcata*, n.
 127 *Cassia marilandica*,
 128 *nictitans*, c.
 129 *chamaecrista*, 1.
 130 *Castanea americana*,
 131 *Catalpa cordifolia*, m.
 132 *Caulophyllum thalictroides*,
 133 *Ceanothus americanus*, [15.
 134 *Celastrus scandens*,
 135 *Cephalanthus occidentalis*,
 136 *Cerastium vulgatum*,
 137 *dichotomum*,
 138 *Ceratophyllum demersum* 4.
 139 *Celtis occidentalis*, n.
 140 *Centaurea cyanus*, c.
 141 *Chara vulgaris*,
 142 *Chelidonium majus*,
 143 *Chelone glabra*,
 144 *Chenopodium album*,
 145 *viride*,
 146 *hybridum*, 10.
 147 *rhombifolium*
 148 *anthelminticum*, 10,
 149 *botrys*, 10.
 150 *ambrosioides*, 10.
 151 *Chimaphila maculata*,
 152 *umbellata*,
 153 *Chrysanthemum leucanthemum*.
 154 *Chrysosplenium oppositifolium*
 155 *Cichorium intybus*, 7. 10.
 156 *Cicuta maculata*,
 157 *bulbifera*, c.
 158 *Circæa canadensis*,
 159 *alpina*,
 160 *Cistus canadensis*,
 161 *ramuliflorum*,
 162 *corymbosum*,
 163 *Claytonia virginica*, c.
 164 *Clematis virginiana*,
 165 *Clethra alnifolia*,
 166 *Cnicus lanceolatus*,
 167 *altissimus*,
 168 *arvensis*,
 169 *pumilus*,
 170 *Cochlearia armoracia*,
 171 *Collinsonia canadensis*,
 172 *Comptonia asplenifolia*,
 173 *Conium maculatum*, n. 10.
 174 *Convallaria bifolia*,
 175 *racemosa*,
 176 *multiflora*,
 177 *Convolvulus repens*, c.
 178 *Conyza marilandica*, 1.
 179 *Coptis trifolia*, A.
 180 *Corallorhiza verna*, 5.
 181 *multiflora*, c.
 182 *Cornus florida*,
 183 *sericea*, c.

- 184 *Cornus alba*, n.
 185 *paniculata*,
 186 *stricta*,
 187 *alternifolia*,
 188 *Corydalis glauca*,
 189 *ecucularia*,
 190 *Corylus americana*,
 191 *rostrata*,
 192 *Crataegus coccinea*,
 193 *pyrifolia*,
 194 *punctata*,
 195 *crusgalli*,
 196 *Crotalaria sagittalis*,
 197 *Cucubalus stellatus*,
 198 *Cupressus thyoides*, 5.
 199 *Cuscuta americana*,
 200 *Cymbidium pulchellum*,
 201 *Cynoglossum officinale*, 10.
 202 *amplexicaule*, 6.
 203 *Cypripedium pubescens*, c.
 204 *spectabile*, n.
 205 *acaule*, c.
 206 *Dactylis glomerata*,
 207 *Datura stramonium*,
 208 *tatula*,
 209 *Daucus carota*, w.
 210 *Dentaria dyphylla*,
 211 *Diervilla canadensis*, 14.
 212 *Digitaria sanguinalis*, &c.
 213 *Dioscorea villosa*, 1.
 214 *Diospyrus virginiana*, 8.
 215 *Dipsacus sylvestris*, 10.
 216 *Dirca palustris*,
 217 *Diosera rotundifolia*,
 218 *Dnlicium spathaceum*,
 219 *Elymus virginicus*,
 220 *villosus*,
 221 *Epilobium coloratum*, c.
 222 *lineare*, c. 3.
 223 *molle*, c. 3, &c.
 224 *Erigeron bellidifolium*,
 225 *purpureum*, 9.
 226 *philadelphicum*,
 227 *strigosum*,
 228 *heterophyllum*,
 229 *canadense*,
 230 *var. pusillum*,
 231 *Eriocaulon pellucidum*, 4.
 232 *Eriophoron polystachyon*,
 233 *Erysimum amphibium*,
 234 *Erythronium americanum*,
 235 *Euchroma coccinea*, A.
 236 *Eupatorium sessifolium*, n.
 237 *altissimum*, n.
 238 *trifoliatum*,
 239 *purpureum*,
 240 *punctatum*,
 241 *verticillatum*,
 242 *perfoliatum*,
 243 *ageratoides*,
 244 *Euphorbia hypericifolia*,
 245 *hirsuta*,
 246 *maculata*,
 247 *polygonifolia*, 1.
 248 *lathyrus*, c.
 249 *Fagus ferruginea*,
 250 *sylvatica*,
 251 *Fragaria virginiana*,
 252 *Fraxinus sambucifolia*,
 253 *acuminata*,
 254 *Fumaria officinalis*,
 255 *Galega virginiana*, 11.
 256 *Galeopsis tetrahit*, 1.
 257 *Galium trifidum*,
 258 *tinctorum*,
 259 *asprellum*,
 260 *aparine*,
 261 *trifolium*,
 262 *pilosum*,
 263 *circezan*,
 264 *boreale*,
 265 *Gaultheria procumbens*, n.
 266 *Gentiana saponaria*, c.
 267 *crinita*, c.
 268 *Geranium maculatum*,
 269 *dissectum*,
 270 *Gerardia flava*,
 271 *glauca*,
 272 *purpurea*, n. 9.
 273 *maritima*, 1.
 274 *tenuifolia*, A.
 275 *Geum strictum*,
 276 *virginianum*,
 277 *album*,
 278 *rivale*,
 279 *Glechoma hedoracea*,
 280 *Gleditsia triacanthos*, m.
 281 *Gnaphalium margaritaceum*,
 282 *polycephalum*,
 283 *plantagineum*,
 284 *uliginosum*,
 285 *Goodyera pubescens*,

- 286 *Gratiola caroliniensis*,
 287 *virginica*,
 288 *Gyromia virginica*,
 289 *Habenaria psycodes*,
 290 *herbiola*
 291 *bracteata*,
 292 *orbiculata*,
 293 *fimbriata*,
 294 *Hamamelis virginica*,
 295 *Hedeoma pulegeoides*,
 296 *Hedysarum canadense*,
 297 *viridiflorum*,
 298 *rotundifolium*,
 299 *glutinosum*,
 300 *acuminatum*,
 301 *bracteosum*,
 302 *paniculatum*, &c.
 303 *Helenium autumnale*, 2.
 304 *Helianthus divaricatus*,
 305 *trachelifolius*,
 306 *mollis*,
 307 *altissimus*,
 308 *giganteus*,
 309 *decapetalus*,
 310 *tuberosus*,
 311 *Helonias dioeca*, c.
 312 *Hemerocallis fulva*, g.
 313 *Hepatica americana*,
 314 *Heracleum lanatum*,
 315 *Heuchera americana*, 2. A.
 316 *Heracium venosum*,
 317 *gronovii*,
 318 *kalmii*,
 319 *marianum*,
 320 *paniculatum*,
 321 *Hibiscus palustris*, 17.
 322 *Hippuris vulgaris*, 19.
 323 *Hottonia palustris*, 20. A.
 324 *Humulus lupulus*,
 325 *Hydrocotyle umbellata*, 9.
 326 *americana*
 327 *Hydropeltis purpurea*, c.
 328 *Hyoscyamus niger*, 10, 21.
 329 *Hypericum perforatum*,
 330 *corymbosum*,
 331 *parviflorum*,
 332 *virginicum*,
 333 *Hypopithys lanuginosa*,
 334 *Hypoxis erecta*,
 335 *graminea*,
 336 *Hyssopus nepetoides*, 10. c.
- 337 *Ictodes fetida*,
 338 *Ilex canadensis*, 3.
 339 *Impatiens pallida*,
 340 *fulva*,
 341 *Inula helenium*,
 342 *Iris versicolor*,
 343 *communis*,
 344 *Isnardia palustris*,
 345 *Iva frutescens*, 1.
 346 *Ixia chinensis*, g.
 347 *Juglans nigra*, w.
 348 *cinerea*,
 349 *Juncus effusus*,
 350 *tenuis*,
 351 *bufonius*, &c.
 352 *Juniperus virginiana*,
 353 *Kalmia latifolia*,
 354 *angustifolia*, 3, 9, &c.
 355 *glauca*, 3.
 356 *Krigia virginica*,
 357 *Lactuca elongata*,
 358 *Lamium amplexicaule*, 10, &c.
 359 *Laurus benzoin*,
 360 *sassafias*,
 361 *Lechea major*, A.
 362 *minor*, R.
 363 *Lecontia virginica*,
 364 *Leersia oryzoides*,
 365 *Lemna polyrrhiza*, c.
 366 *Leontodon taraxacum*,
 367 *Leonurus cardiaca*,
 368 *Lepidium virginicum*,
 369 *Leptandra virginica*,
 370 *Lespedeza capitata*,
 371 *angustifolia*,
 372 *polystachia*,
 373 *procumbens*,
 374 *Liatris scariosa*,
 375 *Ligustrum vulgare*, w.
 376 *Lilium philadelphicum*,
 377 *canadense*,
 378 *Lindernia attenuata*,
 379 *dilatata*, R.
 380 *Linum virginianum*,
 381 *usitissimum*,
 382 *Liquidambar styraciflua*, 1.
 383 *Liriodendron tulipifera*,
 384 *Lithospermum arvense*,
 385 *Lobelia cardinalis*,
 386 *siphilitica*, c.
 387 *inflata*

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|-----|---------------------------------------|-----|--------------------------------------|
| 388 | <i>Lebelia kalmii</i> , | 438 | <i>Orchis spectabilis</i> , c. |
| 389 | <i>claytoniana</i> , | 439 | <i>Origanum vulgare</i> , n. |
| 390 | <i>Lonicera parviflora</i> , | 440 | <i>Ornithogalum umbellatum</i> , n. |
| 391 | <i>Ludwigia alternifolia</i> , n. | 441 | <i>Orobanche uniflora</i> , |
| 392 | <i>Luzula campestris</i> , | 442 | <i>Orontium aquaticum</i> , 3. |
| 393 | <i>Lycopus europeus</i> , | 443 | <i>Ostrya virginica</i> , |
| 394 | <i>virginicus</i> , | 444 | <i>Oxalis violacea</i> , |
| 395 | <i>Lysimachia stricta</i> , | 445 | <i>stricta</i> , |
| 396 | <i>thyrsiflora</i> , 9, &c | 446 | <i>corniculata</i> , |
| 397 | <i>quadrifolia</i> , | 447 | <i>Oxycoccus macrocarpus</i> , |
| 398 | <i>ciliata</i> , | 448 | <i>vulgaris</i> , |
| 399 | <i>Lythrum verticillatum</i> , | 449 | <i>Panax trifolia</i> , |
| 400 | <i>Macrotys racemosa</i> , A. | 450 | <i>quir.quesolia</i> , n. 9. |
| 401 | <i>Malaxis lillifolia</i> , A. 5, &c. | 451 | <i>Papaver rhoeas</i> , G. |
| 402 | <i>Malva rotundifolia</i> , | 452 | <i>somniferum</i> , G. |
| 403 | <i>sylvestris</i> , G. | 453 | <i>Parnasia americana</i> , c. |
| 404 | <i>Martynia proboscidea</i> , G. | 454 | <i>Pastinaca arvensis</i> , |
| 405 | <i>Medicago lupulina</i> , 1. | 455 | <i>Pedicularis canadensis</i> , |
| 406 | <i>Marrubium vulgare</i> , | 456 | <i>Pennisetum glaucum</i> , |
| 407 | <i>Melampyrum americanum</i> , | 457 | <i>Penthorum sedoides</i> , |
| 408 | <i>Melissa officinalis</i> , 10. | 458 | <i>Phalaris americana</i> , |
| 409 | <i>Menispermum canadense</i> , | 459 | <i>Phryma leptostachia</i> , |
| 410 | <i>Mentha tenuis</i> , | 460 | <i>Physalis viscosa</i> , |
| 411 | <i>canadensis</i> , 18. | 461 | <i>obscura</i> , |
| 412 | <i>borealis</i> , | 462 | <i>Phytolacca dodecandra</i> , |
| 413 | <i>piperita</i> , A. W. | 463 | <i>Pinus canadensis</i> , |
| 414 | <i>Micropetalum longifolium</i> , | 464 | <i>nigra</i> , n. 3. |
| 415 | <i>Mikania scandens</i> , | 465 | <i>rigida</i> , n. |
| 416 | <i>Mimulus ringens</i> , | 466 | <i>strobilus</i> , 5. |
| 417 | <i>alatus</i> , n. | 467 | <i>pendula</i> , c. |
| 418 | <i>Mitchella repens</i> , | 468 | <i>Pisum maritimum</i> , L. |
| 419 | <i>Mitella diphylla</i> , | 469 | <i>Plantago major</i> , |
| 420 | <i>Mollugo verticillata</i> , | 470 | <i>lanceolata</i> , |
| 421 | <i>Monotropa uniflora</i> , | 471 | <i>maritima</i> , 1. |
| 422 | <i>Morus rubra</i> , | 472 | <i>Platanus occidentalis</i> , |
| 423 | <i>Myosotis arvensis</i> , | 473 | <i>Podophyllum peltatum</i> , n. |
| 424 | <i>Myrica cerifera</i> , | 474 | <i>Pogonia ophioglossioides</i> , c. |
| 425 | <i>Myriophyllum tenellum</i> , 4. | 475 | <i>Polygala sanguinea</i> , |
| 426 | <i>Neottia tortilis</i> , | 476 | <i>verticillata</i> , |
| 427 | <i>gracilis</i> , | 477 | <i>ambigua</i> , |
| 428 | <i>cernua</i> , | 478 | <i>Polygonum aviculare</i> , |
| 429 | <i>latifolia</i> , 9. | 479 | <i>erectum</i> , |
| 430 | <i>Nicotiana rustica</i> , G. | 480 | <i>tenuis</i> , |
| 431 | <i>Nuphar advena</i> , | 481 | <i>punctatum</i> , |
| 432 | <i>kalmiana</i> , 2. | 482 | <i>virginianum</i> , |
| 433 | <i>Nymphaea odorata</i> , c. | 483 | <i>persicaria</i> , |
| 434 | <i>Nyssa multiflora</i> , n. | 484 | <i>pensylvanicum</i> , |
| 435 | <i>Oenothera biennis</i> , | 485 | <i>sagittatum</i> , |
| 436 | <i>grandiflora</i> , G. | 486 | <i>arifolium</i> . |
| 437 | <i>chrysantha</i> , | 487 | <i>convolvulus</i> , |

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|-----|--------------------------------|-----|-----------------------------------|
| 488 | <i>Polygonum scandens,</i> | 539 | <i>Rhexia virginica, v. n.</i> |
| 489 | <i>orientale, c.</i> | 540 | <i>Rhus typhinum,</i> |
| 490 | <i>sagopyrum,</i> | 541 | <i>glabrum,</i> |
| 491 | <i>Pontederia cordata,</i> | 542 | <i>copallinum,</i> |
| 492 | <i>angustifolia, 4.</i> | 543 | <i>vernix,</i> |
| 493 | <i>Populus tremuloides,</i> | 544 | <i>toxicodendron,</i> |
| 494 | <i>grandidentata,</i> | 545 | <i>Ribes floridum,</i> |
| 495 | <i>angulata,</i> | 546 | <i>triflorum,</i> |
| 496 | <i>levigata, n.</i> | 547 | <i>Robinia pseudoacacia,</i> |
| 497 | <i>Portulacca oleracea,</i> | 548 | <i>Rochellia virginiana, 10.</i> |
| 498 | <i>Potamogeton natans, 2.</i> | 549 | <i>Rosa parviflora,</i> |
| 499 | <i>fluitans, 2.</i> | 550 | <i>carolina,</i> |
| 500 | <i>perfoliatum, 2.</i> | 551 | <i>rubiginosa, n.</i> |
| 501 | <i>heterophyllum, 4.</i> | 552 | <i>Rubus ideus, c.</i> |
| 502 | <i>pectinaceum, 2.</i> | 553 | <i>villosus,</i> |
| 503 | <i>Potentilla norwegica,</i> | 554 | <i>strigosus,</i> |
| 504 | <i>canadensis,</i> | 555 | <i>occidentalis,</i> |
| 505 | <i>simplex,</i> | 556 | <i>trivialis,</i> |
| 506 | <i>argentea,</i> | 557 | <i>flagellaris,</i> |
| 507 | <i>Prenanthes alba,</i> | 558 | <i>odoratus, n.</i> |
| 508 | <i>serpentaria,</i> | 559 | <i>Rudbeckia laciniata,</i> |
| 509 | <i>Prinos verticillatus,</i> | 560 | <i>Rumex crispus,</i> |
| 510 | <i>Proserpinaca palustris,</i> | 561 | <i>verticillatus,</i> |
| 511 | <i>Prunella vulgaris,</i> | 562 | <i>obtusifolius,</i> |
| 512 | <i>Prunus virginiana,</i> | 563 | <i>acetosellus,</i> |
| 513 | <i>serotina,</i> | 564 | <i>Sabbatia stellaris,</i> |
| 514 | <i>chicasa, var. flava,</i> | 565 | <i>Sagina procumbens,</i> |
| | <i>var. rubra,</i> | 566 | <i>Sagittaria sagitifolia,</i> |
| 515 | <i>Pycnanthemum incanum,</i> | 567 | <i>latifolia,</i> |
| 516 | <i>lanceolatum,</i> | 568 | <i>hastata,</i> |
| 517 | <i>Pyrola rotundifolia,</i> | 569 | <i>gracilis,</i> |
| 518 | <i>elliptica, c.</i> | 570 | <i>heterophylla,</i> |
| 519 | <i>secunda, n.</i> | 571 | <i>acutifolia,</i> |
| 520 | <i>Quercus tinctoria,</i> | 572 | <i>Salicornia herbacea, 1.</i> |
| 521 | <i>discolor,</i> | 573 | <i>var. virginica, 1.</i> |
| 522 | <i>coccinea, n.</i> | 574 | <i>Salix conifera,</i> |
| 523 | <i>palustris,</i> | 575 | <i>prinoides,</i> |
| 524 | <i>obtusiloba, 7.</i> | 576 | <i>babylonica, In.</i> |
| 525 | <i>alba,</i> | 577 | <i>lucida,</i> |
| 526 | <i>montana,</i> | 578 | <i>cordata,</i> |
| 527 | <i>bicolor,</i> | 579 | <i>vitellina, &c.</i> |
| 528 | <i>Queria canadensis,</i> | 580 | <i>Salsola kali, 1.</i> |
| 529 | <i>Ranunculus flammula,</i> | 581 | <i>caroliniana, 1.</i> |
| 530 | <i>abortivus,</i> | 582 | <i>soda, 1.</i> |
| 531 | <i>sceleratus, 1.</i> | 583 | <i>Sambucus canadensis,</i> |
| 532 | <i>fascicularis,</i> | 584 | <i>pubescens, 15.</i> |
| 533 | <i>repens,</i> | 585 | <i>Samolus valerandi, 1.</i> |
| 534 | <i>acris,</i> | 586 | <i>Sanguinaria canadensis,</i> |
| 535 | <i>recurvatus,</i> | 587 | <i>Sanicula marylandica,</i> |
| 536 | <i>fluvialis,</i> | 588 | <i>Saponaria officinalis, 10.</i> |
| 537 | <i>aquaticus,</i> | 589 | <i>Sarothra gentianoides,</i> |
| 538 | <i>lacustris, 13, &c.</i> | 590 | <i>Sarracenia purpurea, c.</i> |

- 591 *Saururus cernuus*, A. 2.
 592 *Saxifraga virginensis*,
 593 *pennsylvanica*,
 594 *Schollera graminifolia*, 2.
 595 *Scirpus tenuis*,
 596 *capitatus*,
 597 *trichodes*,
 598 *lacustris*,
 599 *triqueter*, &c.
 600 *Scleranthus annuus*,
 601 *Scrophularia marylandica*,
 602 *Scutellaria lateriflora*,
 603 *galericulata*,
 604 *Sedum telephium*, w.
 605 *Senecio hieracifolius*, 10, &c.
 606 *obovatus*, 16, A.
 607 *aureus*,
 608 *Serpicula canadensis*, 2, A.
 609 *Sida abutilon*, 10.
 610 *Silene antirrhina*,
 611 *Sinapis nigra*,
 612 *Sison aureus*,
 613 *Sisymbrium officinale*,
 614 *Sisyrinchium auceps*,
 615 *Sium latifolium*,
 616 *lineare*,
 617 *Smilax rotundifolia*,
 618 *peduncularis*,
 619 *herbacea*,
 620 *Solanum dulcamara*,
 621 *nigrum*,
 622 *carolinense*, A. 1.
 623 *Sonchus arvensis*,
 624 *oleraceus*,
 625 *leucophæus*,
 626 *pallidus*,
 627 *Sparganium ramosum*,
 628 *americanum*,
 629 *Spergula arvensis*,
 630 *saginitoides*, R.
 631 *Spiræa salicifolia*,
 632 *tomentosa*, A.
 633 *Staphylea trifolia*,
 634 *Statice limonium*, 1.
 635 *Stellaria media*,
 636 *Strophostylus angulosa*, 1, 7.
 637 *Symphitum officinale*, A. w.
 638 *Tanacetum vulgare*, G. w.
 639 *Teucrium canadense*, 1.
 640 *virginicum*, 10, 2.
- 641 *Thalictrum dioicum*,
 642 *revolutum*,
 643 *rugosum*,
 644 *Thesium umbellatum*, 1.
 645 *Thlaspi campestre*,
 646 *bursa-pastoris*,
 647 *Thymus serpyllus*, 10, 1.
 648 *Tilia glabra*,
 649 *pubescens*, c.
 650 *Trichostemma dichotoma*,
 651 *Trientalis americana*, A. 5, &c.
 652 *Trifolium repens*,
 653 *pratense*,
 654 *arvense*,
 655 *Trillium erythrocarpum*, 5.
 656 *pendulum*, 12.
 657 *erectum*,
 658 *var. album*,
 659 *Triosteum perfoliatum*,
 660 *Tussilago farfara*,
 661 *Typha latifolia*,
 662 *angustifolia*, 4, 9.
 663 *Ulmus americana*,
 664 *fulva*,
 665 *Uraspermum claytoni*,
 666 *hirsutum*, 9.
 667 *canadense*,
 668 *Urtica pumila*,
 669 *dioica*,
 670 *procera*,
 671 *canadensis*,
 672 *Uvularia perfoliata*,
 673 *sessifolia*,
 674 *Vaccinium stamineum*,
 675 *dumosum*,
 676 *resinosum*,
 677 *corymbosum*,
 678 *pennsylvanicum*,
 679 *Utricularia macrorhiza*,
 680 *setacea*, 4, c.
 681 *Veratrum viride*,
 682 *Verbasum thapsus*,
 683 *blattaria*, v. *alba*,
 684 *var. lutea*,
 685 *Verbena hastata*,
 686 *oblongifolia*,
 687 *urticifolia*,
 688 *Vernonia noveboracensis*,
 689 *Veronica serpyllifolia*,
 690 *beccabunga*, R.

691	scutellata,	718	aspera,
692	arvensis,	719	altissima,
693	peregrina,	720	nemoralis,
694	Viburnum lentago,	721	elliptica,
695	lantanoïdes, c.	722	odora,
696	acerifolium,	723	bicolor,
697	oxycoccus,	724	lanceolata,
698	Vicia sativa, 1.	725	rigida, &c.
699	Viola cucullata,	726	Aster rigidus,
700	palmata,	727	linarifolius,
701	lanceolata, 1.	728	dumosus,
702	obliqua,	729	æstivus,
703	ovata,	730	amygdalinus,
704	debilis,	731	novæanglia,
705	pubescens,	732	humidis,
705	pubescens,	733	phlogifolius,
706	papilionacea,	734	levis,
707	Vitis æstivalis,	735	bellidifolius,
708	vulpina,	736	laxus,
709	labrusca,	737	conyzoides,
710	Xanthium strumarium, 10-	738	recurvatus,
711	macrocarpon,	739	undulatus,
712	Zanthoxylum fraxineum, 10.	740	paniculatus,
713	Zizania aquatica, 18.	741	cordifolius,
714	Solidago canadensis,	742	corymbosus,
715	procera,	743	macrophyllus, &c.
716	serotina,	744	Carex tentaculata,
717	gigantea,	745	folliculata, &c. &c.

**EXPLANATION OF THE CHARACTERS USED IN THE PRECEDING
CATALOGUE.**

A, denotes that the plant grows here in abundance. R, rare. C, common. W, growing *wild*. IN., introduced. G, denoting such plants as grow here spontaneously, and have probably crept from the gardens, or grow uncultivated about gardens. 1, plants that grow in Greenwich, Conn., about 20 miles south of this place. 2, Croton river adjoining this town. 3, Tamarac swamp, about two miles from northeast corner of this town, in Ridgebury, Conn. 4, Peach pond. 5, Cedar swamp, at north end of Peach pond. 6, East Long pond mountain. 7, Rye, about 20 miles south. 8, Byram river. 9, East Long pond. 10, road sides. 11, Turkey hill, half mile southwest of the academy. 12, near Beaver pond, northwest academy about three miles. 13, in a pond on Long pond mountain. 14, in woods about 1½-2 miles northeast of academy. 15, in a place called *Devil's den* southeast. 16, about 4-5 miles southwest academy. 17, by a mill pond in South Salem. 18, Burt's pond, four-miles east of academy. 19, by the road in a ditch between West and East Long ponds. 20, in a pond by road on West Long pond mountain. 21, Bedford.

It is not expected that the preceding is a complete list. The species of the salix, of the carex, and all the grassy tribe, are very numerous. Many of the plants have been noticed since the last report. I have found nearly all the species above enumerated, immediately around Peach pond, East Long pond, Croton river and Tamarac swamp. There are in this vicinity several other places probably furnished with rare plants, which places I have never visited. I have personally examined every plant in the preceding catalogue, and am satisfied none are named which are not to be found as here represented.

Should the academies be furnished with a suitable botanical library, (and indeed such other works and apparatus as might be useful in every department of natural science,) the science would be greatly promoted and extended. Then every person disposed to pursue the study, would be able to decide in cases of difficulty and doubt. Few individuals are able to purchase all the works which might occasionally be necessary. All the works containing figures of our native plants, ought to be preserved in every scientific library.

SAMUEL B. MEAD.

PECTIVE PLACES.

KS.

ling back to the Mohawk.
nd 250 above the canal at Port-Byron.

above the surface of the Lake.
of the Susquehannah from those of the Mohawk.

smity of Long-Island.
anal at Herkimer.
tide.
he south-east, the highlands of Chautauque are distant 7 miles.

water.

the River.
be from 200 or 300 feet above the canal at Rochester.

ee of the River.

the canal at Salina.

tion 48 feet above the canal.

MEMORANDUM.

In one of the former reports it was requested that means might be devised by the trustees of each academy, to determine the elevation of the place of observation above some known point of one of the canal and road surveys, with which this state has been traversed, in almost every direction.

The preparers of the abstract again make this request, and in order to facilitate the object, annex the following directions to some of the academies.

Auburn. Above the canal at Weedsport :—a survey has been made.

Cambridge. Above the Hudson or the Champlain canal.

Canandaigua. Above Canandaigua lake.

Clinton. Above the Ocean.

Dutchess. Above the Hudson.

Fairfield. Above some point on the route of the canal survey, between the Erie canal and the Black River.

Franklin. Above the Crooked lake or Bath, on the Cochocton.—
The elevations of these are known.

Fredonia. Above Lake Erie.

Gouverneur. A canal survey has been made along the Oswegatchie.
The elevation above some known point on this may be determined.

Hartwick. The elevation of the mouth of Oak's creek, on the Susquehanna, is known.

Hudson. Above the level of the Hudson.

Johnstown. If we mistake not, a canal survey has passed through or near the village; if this be not the case, the elevation may be obtained from the canal.

Lewiston. Above the Niagara river or Lake Ontario.

Mount-Pleasant. Above the Hudson.

Newburgh. Above the Hudson.

Redhook. Above the Hudson.

Union. Above Lake Ontario.

Union-Hall. Above the Ocean.

§ The methods employed in ascertaining the elevations should be stated in the return.

Mr. Gander

act. 1979

Mr.

No. 51.

IN SENATE,

March 7, 1831.

REPORT

Of the select committee, to whom was referred the report of the Commissioners for draining the Cayuga Marshes.

Mr. Mather, from the select committee, to which was referred the annual report of "the Commissioners for draining the Cayuga Marshes," begs leave to submit the following

REPORT:

The public works, connected with the improvement aforesaid, were undertaken by the State, after a particular survey of the premises, and estimate of expense, made by David Thomas, an engineer of great experience, acting under the authority of the State.

Mr. Thomas' first report on the subject was submitted to the Legislature in the winter of 1825, and may be found in the Assembly journal of that year, at page 416; by which it will be seen, that the whole expense of lowering the Seneca river three feet at Jack's Reefs, and to a much less extent at two or three points intermediate the Reefs and the foot of Cayuga lake, was estimated at \$125,000.

By a law passed April 18, 1825, the sum of \$80,000 was appropriated, and commissioners were appointed to superintend and prosecute the work. They were directed at once, to make and file in the office of the Comptroller, a survey and assessment of the lands directly to be benefitted by the expenditure of the monies aforesaid.

That survey and assessment was accordingly made, and was filed within the time limited by the act, and exhibits, in its details and results, about 30,000 acres of marsh and swamp lands, valued at different prices, in their natural state, from 25 cents to \$1.00, and a very small proportion at four dollars per acre; all of which, it was contemplated, would be reclaimed in the progress and completion of said improvements, so as to make the first quality of alluvial meadow, or arable land; at the same time the strongest hopes were, and still are entertained, that the surrounding country, before subject to an annual visitation of desolating sickness in the autumnal months, would be greatly improved in point of healthiness.

By the 3d section of the act of 1825, it was provided that all monies advanced in execution of the aforesaid works, should be reimbursed to the State, by a tax on the lands and property to be benefitted and increased in value by lowering the waters of said river and lake, and the said tax was declared to be inviolably pledged for the repayment of said monies to the State, with interest.

By the 6th section of the same act it was further provided, that as soon as the waters of said river and lake should be sufficiently reduced to reclaim said lands, so far as might be practicable to reclaim the same by the expenditure of said moneys, the commissioners were to make a new assessment, including not only the lands first surveyed and assessed, but all other lands and property which in their opinion should be increased in actual value by lowering said waters, exhibiting the actual increased value, over and above what the value was before the lowering of the waters, and a tax was thereon to be assessed proportionately, to refund all the moneys advanced by the State, and 6 per cent interest thereon.

For the payment of this tax when returned to the Comptroller, the lands were directed to be sold, (in default of payment by the several owners,) and in case of a deficiency on sale, to repay the tax with interest. The Comptroller was directed to make returns of all deficiencies to the several counties in which the lands were situate; the supervisors of which were required to assess, collect and return the same to the treasury in the same manner as in case of a State tax upon the county.

By a law passed in 1826, some alterations were made in the Board of Commissioners, and certain contracts made by the former Board were declared to be confirmed.

By another act passed in 1828, the further sum of \$20,000 was appropriated to be expended in the prosecution of the works aforesaid, subject to the same provisions and liabilities as contained in the act of 1825.

The committee have thus given the Senate a general view of all the material provisions of legislative acts heretofore passed on the subject referred to them.

By the report of the present Board of Commissioners, and the testimony of the engineer, Mr. Thomas, all of whom are well known to most of your committee, as well as to many other members of the Legislature, to be men of judgment and of distinguished standing for probity, and so intimately conversant with the subject in hand as to be able to judge from personal observation and experience, it appears that a decided opinion is entertained that the improvements contemplated by the several acts above recited may be completed at an expense not exceeding the original estimate.

The committee have, therefore, unanimously agreed to recommend a further appropriation of \$25,000, (which sum as yet remains unappropriated of the original estimated expense,) for the completion of said improvements, subject to the same provisions and liabilities as contained in the act of 1825, and for that purpose beg leave to introduce a bill.

All which is respectfully submitted.

IN SENATE,

March 12, 1831.

REPORT

**Of the committee on claims, on the petition of
David Godwin.**

Mr. Sherman, from the committee on claims, to whom was referred the petition of David Godwin, a revolutionary soldier,

REPORTED—

That they have examined the case of the petitioner, David Godwin, and it appears that on the 29th day of December, in the year 1776, he enlisted in the 5th regiment of New-York infantry, under the command of Col. Dubois, to serve during the war; and served in said regiment as a drummer, until the consolidation of the five New-York regiments, or what remained of them, into the line of the army of the United States; that by that consolidation he was transferred to Captain Johnson's company, in the second regiment of infantry, under the command of Colonel Philip Van Courtland; which regiment formed a part of the eighty-eight battalions, raised by order of Congress, and apportioned amongst the several states of the Union.

It appears that said Godwin continued to serve in the said regiment, doing active duty therein, until January, 1781; that he was in the battle of Fort Montgomery, and, in the language of Colonel Dubois, conducted himself in the service, as far as his observation went, "from first to last, as a brave and faithful soldier."

He was never regularly discharged from the army; and his name does not appear upon the balloting book, amongst those for whom lands were drawn; and this circumstance he has accounted for in the following manner, and by the following evidence:

The manuscript, or Neely's book, in the office of the Secretary of State, is first referred to. This book contains a muster-roll of the troops of this State, serving in the line of the army of the United States; and has been of much use in the investigation of revolutionary claims; affording the means, as the best evidence extant, of doing justice in many individual cases, and of detecting errors in claims involved in doubt and mystery.

In this book the name of the petitioner is entered as having been enlisted at and for the time, and serving in the company and regiment before stated. And opposite to his name in the column of occurrences, the following remark is made: "*Mustered to January, 1781*"—thus shewing that the petitioner was on duty as a soldier until near the close of the active operations of the war. The battle of Yorktown was fought in the same year; and the result of that battle led to the preliminaries of peace.

The committee have examined other evidence submitted to them by the petitioner; and in the first place, he states in his own affidavit, that he was taken sick, and through the intercession of his officers, obtained leave of absence to return home; that after recovering his strength in some measure, he rejoined the army, at or near Newburgh, where they had been assembled preparatory to their being discharged; that soon after he was again taken sick, and by *leave of absence* returned home again, where he was confined by sickness until the army was disbanded.

Abraham Godwin, by his affidavit, corroborates this statement, and says that the petitioner is a brother of his, and that they both enlisted together, and served in the same regiment; that he himself received an honorable discharge, signed by General Washington; and that his brother would have received a similar one had he been present—but was on *furlough* at the time, and detained at home on account of sickness.

Colonel Dubois, in his affidavit, speaks favorably of the petitioner, and of his serving, to the best of his knowledge, until the conclusion of the war.

It likewise appears, that the claim of the petitioner has been submitted to the war department of the general government, at Washington, who have passed upon the same, and decided in his favor, and granted him his land warrant, dated 1st February, 1830, for the

one hundred acres of bounty land mentioned in the concurrent resolutions of 1776.

To the minds of the committee the evidence adduced appears to be satisfactory, and shews that the petitioner was in active service from 1776 to 1781, and that his absence towards the close of the war, and at the disbanding of the army, was owing to sickness, and with permission. Why his name was not so returned on the army register, does not appear; nor is it material, since it has been shewn that such ought to have been the case. That such omissions should have happened is not at all surprising, considering the changes, privations and difficulties to which the army was often subjected, in that gloomy period.

The petitioner states in his affidavit, that the reason why he has not before presented his claim to the Government is, that until within a few years past, he has been able to sustain himself in comfortable circumstances, and above the condition of want; but adversity has overtaken him in his old age, and being nearly deprived of sight, is unable to attend to any kind of business.

The committee have come to the conclusion that the claim is a meritorious one, and that the proof is sufficient in their minds, to shew that the petitioner's case is embraced within the joint resolutions and laws of the State, setting apart bounty lands for the soldiers of the revolutionary war. But as these lands have been disposed of by the State, and the proceeds gone to the funds of the government; it is just and proper, in the opinion of the committee, that the petitioner should receive, in lieu thereof, a reasonable compensation from the treasury. For this purpose they have prepared a bill, and instructed their chairman to introduce the same.

IN SENATE,

March 11, 1831.

COMMUNICATION

**From the Governor, relative to the boundary line
between this State and the State of New-Jersey.**

TO THE LEGISLATURE.

GENTLEMEN,

I consider it my duty to lay before you the accompanying communication from the Attorney-General, concerning our controversy with New-Jersey. The matter to which it relates, derives much of its importance from the grounds assumed by the Judges of the Supreme Court of the United States, with regard to their powers; and I feel bound to present to you my views of the subject, as well as the course which I feel impelled by a regard to the interests and honor of the State to pursue, unless you shall think proper to give it a different direction.

You are apprised by the accompanying papers, and those which have preceded them, from the same source, of the several steps taken by the State of New-Jersey, to compel our appearance before the national judiciary, to contest with her the question of sovereignty over a portion of the waters of the Hudson river.

It seems to be a mere question of sovereignty over the waters, inasmuch as New-Jersey admits in her bill of complaint, that whatever right she may have had to the islands, those rights have been lost by adverse possession and the lapse of time.

The Attorney-General, with my sanction, has hitherto declined to appear in court and respond to the complaint, without intending any disrespect to that high tribunal, and in a manner which I trust

precludes the imputation of such a motive. His refusal to appear was grounded upon the belief, that the court has not been invested with the power to take cognizance of original suits, where a State is made a defendant party. The reasons for this opinion are more fully detailed by the Attorney-General, but may be succinctly stated as follows :

1. It was not designed by the Constitution to confer that power on the court, until Congress had legislated upon it, and declared *what* controversies between States were proper to be entertained by the court, and what should be the mode of proceeding. The Constitution is silent in regard to both of these matters. A strong argument in favor of this construction is afforded by that clause in the Constitution, which, after enumerating the powers of Congress, adds : "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and *all other powers* vested by the Constitution in the government of the United States, *or in any department or officer thereof.*"

2. That Congress had passed no laws for these purposes.

In 1789, a judiciary act was passed, giving writs and other proceedings in all cases, other than those where a state was defendant. This was a practical construction of the constitution, and showed their opinion that legislation was necessary to enable the court to proceed. And by neglecting to provide specifically, for proceedings in controversies between states, they indicated their opinion that the time had not arrived when it would be proper for the court to entertain such suits. The meaning of Congress is most distinctly marked by the wording of the judiciary act. It grants to the court, the power to issue certain writs, and further, "all other writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law."

Now, as no mode of proceeding, against a sovereign state, is known to the common law, it would seem to be a fair conclusion, that Congress designed, by precise and unequivocal language, to exclude an implication, that the power to proceed against a state was granted by the act.

3. Although the court has frequently attempted to exercise this power, by entertaining writs against states, and summoning them to

appear and answer, no state has ever obeyed their summons ; thereby virtually denying the power of the court.

4. Several attempts have been made by states to prevail upon Congress, to pass laws for this object ; but they have uniformly refused to vest this power in the court. Two of these attempts, made in 1822 and 1828, are detailed in the several reports of the Attorney-General.

5. The state of New-Jersey has, impliedly, admitted the want of power in the court, by her attempt to obtain the passage of the law in 1822, and by a proposition made through her commissioners, to the commissioners on the part of this State, in 1827, to submit this controversy to the Supreme Court, as an impartial tribunal to arbitrate between the parties.

Taking the foregoing view of the subject, I did not consider myself justified in permitting the State to be represented as a party defendant, before a tribunal which had no right to exercise authority over us, and which, I confidently hoped, would, on a review of its own powers, come to that conclusion.

But the matter has now assumed a new aspect. The opinion of that court shews, that they view the subject differently, or at least are disposed to assume the jurisdiction on an *ex parte* case.

The grounds upon which, it is supposed, that the court claims cognizance of the controversy, are :

1. That ample power is given to them by that clause of the constitution, which ordains that " The judicial power shall extend to controversies between two or more states." That having the power, the means of exercising it are incidental, and that they may, by rules of court, prescribe the forms of proceeding.

2. That the proceedings in suits before that court, prescribed by statute, are applicable to cases where a state is defendant, and that therefore Congress has legislated on the subject ; and,

3. That the decisions of that court have been uniform, in all cases which have come before it, and support the authority of the court.

We have now reached a point in the progress of this litigation, where the future action of the State should be determined upon

with deliberation, and governed by a due sense of all the high responsibilities resting upon us, as citizens of the United States, and members of a corporate state sovereignty. This State can never forget that she is a member of the Union, and has a large stake in its perpetuity. While she will permit no encroachments on the part of the general government, she will put forth her strong arm, in time of need, to support it in the exercise of its acknowledged powers. If, on this occasion, she is compelled to differ with the national judiciary, I have no doubt, that she will do so firmly and dispassionately, and afford a becoming example of respect towards the tribunal deemed worthy, by the founders of our government, to be the depository of the power for preserving the peace of the Union.

It was undoubtedly a part of the design of our government to have a judicial tribunal to decide on all questions of conflicting rights, growing out of the limitations of the sovereignty of the States, and the specific delegations of power to the general government. And one of its special objects was to adjust amicably, all such differences as might arise between the States. The want of such a power, with sufficient energy to enforce its decisions, was one of the leading motives for proposing a Constitution.

Every worthy American must be penetrated with feelings of gratitude, when he contemplates the beautiful structure of our government, and the wonderful harmony and adaptation of its parts. The people, although divided into several communities, are nevertheless, by their compact, bound together in fraternal relations, under a common head, with all the same social interests, duties and feelings, which belong to a consolidated nation. In its great outlines, human wisdom could not devise any thing more perfect, to secure those who live under its protection, in the possession of their rights, and to defend them from the calamities attendant upon civil dissensions. It would have been essentially defective in its arrangements, if provision for the adjustment of disputes between the members of the confederacy had been omitted. An appeal to arms, which is the only means of redress by one nation for the wrongs committed upon it by another, is ill suited to the condition of the members of the same political family.

But in this part of the system, an inherent difficulty reminds us of the imperfection of all human works. Our government is based upon a written Constitution, which is the rule of conduct for all the

constituted authorities. Legislative discretion finds its limits there. Who shall decide when its boundaries are transgressed? If this power had been placed in Congress, then not the Constitution, but the will of that body, would be the fundamental law of the empire. It is in the nature of things, that there must be an irresponsible power, somewhere, and in the adjustment of the parts of our government, it was deemed essential to the uniformity of its action, to place it beyond the influence of those commotions, arising from popular errors, which indiscriminately destroy, and soon pass away. This power was, therefore, intended to be placed in judicial officers, rendered immoveable, save for misconduct.

This body, being the ultimate tribunal from which no appeal lies, must necessarily decide, among other things, upon its own constitutional powers. The only relief from its errors rests in a resort to amendments of the Constitution, to an impeachment of the judges, and in cases of flagrant usurpations, to a refusal by the officers to execute its decrees, or a forcible resistance on the part of the State, which is sought to be subjected to its power.

While we deny to the Supreme Court the right to bring us before its judgment seat, we have no reason to believe that it designs to usurp authority over us, or that it will persist in enforcing a jurisdiction, when it is convinced of its error. Indeed the court seem to invite us to a discussion of their power, in the closing part of their opinion, where they say, that "the question of proceeding to a final decree will be considered as not conclusively settled, until the cause shall come on to be heard in chief."

However clear we may consider the question to be, that the court has no power, yet the only peaceful tribunal which has cognizance of the question has decided it provisionally against us, and it becomes a question of magnitude, whether we shall now assume an attitude of resistance, or whether we shall embrace the opportunity still presented to us, to debate the question.

It will be proper to inquire, in the first place, if any, and what rights of the State will be compromised by an appearance in court, to contest the jurisdiction, and ultimately to try the merits of the dispute between the States. A resort to forcible resistance would be both unwise and unbecoming in the State, except on undisputed ground, and at the last point of forbearance.

It has been feared by some, that if we should appear in court, we should thereby waive our right to object to the jurisdiction in the subsequent progress of the cause. If a law of Congress be necessary to give effect to the Constitution, and the court takes no jurisdiction without it, then an appearance by the State waives nothing. Jurisdiction cannot be conferred by an act which does not extend it over all the States. The Constitution or the law, or both conjointly, may confer such a jurisdiction, but no State can bestow it either by implication or express consent. It is a rule of law, that the consent of a party does not give jurisdiction: a court takes no more power by virtue of it, than an unofficial person. The authority of a tribunal, created by the consent of the parties, is derived from the submission, and cannot be extended beyond its terms. Contending as we do, that the clause of the Constitution which declares, that the judicial power shall extend to controversies between States, is a dormant power, and does not attach to any tribunal until it is vivified by an act of Congress, our appearance, in compliance with a summons from the court, under a protest against its proceedings, will admit nothing.

But supposing that this position is untenable, and that the Constitution should be interpreted to mean to invest the court with a jurisdiction, which it is unable to execute, for want of process to bring the party into court; yet we have a right to contend, and I think we will be sustained by the court, and the enlightened sense of the American people, that the technical rules of law, so proper and expedient in ordinary causes between private parties, ought not to apply to a case so peculiar and momentous. This case is entirely anomalous, involving a great and fundamental question of right. It is to determine the limits of power between a State sovereignty and an arm of the national government, beyond which there is no appeal, except to that which severs the bonds of the Union, and involves us in all the horrors of civil war. Such rights as we contend for are not to be controlled by technicalities, and cannot be waived by any implication. We have too much regard to the public peace; too much respect for the constituted authorities; too much interest in sustaining the National as well as State governments in their proper spheres, to put at defiance any branch of authority created by the Constitution, until argument and remonstrance are exhausted.

We have great confidence, that should the merits of the controversy between this State and New-Jersey be examined, they will

be found to rest with us. If this should be the result of an investigation before the court, it would quiet this hitherto vexatious dispute, which has so long disturbed our harmony with a sister State. If, however, a judgment should pass contrary to our expectations, and justice should not demand of us to cede the disputed territory, and we should still deny the authority of the tribunal, we should then be in as good a condition to resist the execution of the judgment, as if it had passed against us by default of appearance.

As the court has seen fit to select the Executive and Attorney-General, as the proper persons to bring into their court, as the representatives of the State, I shall, unless otherwise directed by the Legislature, instruct the Attorney-General to protest against any waiver of right by appearing, and to appear and contest the suit in its progress, to its final determination.

E. T. THROOP.

Albany, March 10, 1831.

REPORT OF THE ATTORNEY-GENERAL.

Albany, February 24, 1831.

*His Excellency ENOS T. THROOP,
Governor of the State of New-York.*

SIR—

It has become my duty again to invite the attention of your Excellency, to the suit commenced in the Supreme Court of the United States, by the State of New-Jersey, against the People of the State of New-York. And in doing so, it may be proper to give a brief account of the nature and progress of this litigation.

In June, 18th, a copy of the bill filed by the State of New-Jersey, and a subpoena to appear and answer, were served upon the Governor and Attorney-General. The subpoena was directed to those officers, and commanded them to appear “on behalf of the people of the State of New-York,” which they were not to omit “under the penalty of five hundred dollars.”

The bill filed by the State of New-Jersey, after setting forth letters patent granted by king Charles the second, to his brother James, duke of York, in 1664, and several other grants, proceeds as follows: “And your complainants respectfully insist, that by the fair construction of the grants before mentioned, and by the principles of public law, the State of New-Jersey is justly and lawfully entitled to the exclusive jurisdiction and property of and over the waters of the Hudson river, from the forty-first degree of latitude, to the bay of New-York, to the *filum aquæ*, or midway of the said river; and to the midway or channel of the said bay of New-York, and the whole of Staten-Island Sound, together with the land covered by the water of the said river, bay, and sound, in the like extent.

“And your complainants well hoped that the people of the State of New-York, would have permitted your complainants peaceably and quietly to enjoy her said rights of property, jurisdiction and sovereignty, over the said waters, and land covered with water, of the said river Hudson, and the other dividing waters of the Bay of New-York, without the interruption and disturbance of the State of New-York, as in justice and equity she ought to have done. But

now, so it is, may it please your honors, that the people of the State of New-York, intending to encroach upon and aggrieve the State of New-Jersey in her lawful rights, at an early period of the settlement of the said States, and while they were colonies, wrongfully and forcibly possessed herself of the said island, called Staten-Island, and the other small islands in the dividing waters between the two States ; and your complainants then being a feeble colony, and under a proprietary government, although the right of New-Jersey was publicly and frequently urged to the said islands, she could oppose no effectual resistance to the said encroachment of the State of New-York, which was then under royal patronage, and her inhabitants exempted from the taxation which New-Jersey was obliged to impose upon her citizens ; that the possession thus acquired by New-York, has been since that time acquiesced in, and the State of New-York refuses to yield up to your complainants the said islands, insisting that by the principles of public law, the said possession of the said islands, has established the title to the same in herself ; but your complainants insist and charge, that although it may be true, that the long continued possession of New-York of the said islands, may conclude your complainants from disturbing the same at this time, and which your complainants are willing, for the sake of peace, to admit ; yet that the State of New-York has no other pretence of title to the said islands, on which she can rely, but the said adverse possession ; and that inasmuch as the said possession of those islands by the State of New-York, has been uniformly confined in its exercise to the fast land thereof, your complainants insist, that the title of New-Jersey to the whole waters of the Staten-Island Sound, remains clear and absolute in your complainants, according to the terms of the said herein recited grants.” The principal prayer of the bill is, that “ the eastern boundary line between your complainants and the State of New-York, may by the order and decree of this honorable court, be ascertained and established, and that the rights of property, jurisdiction and sovereignty of your complainants to the *filum aquæ*, or middle of said Hudson river, from the forty-first degree of north latitude on the said Hudson river, through the whole line of the eastern shore of the State of New-Jersey, as far as the said river washes and bounds the said State of New-Jersey, down to the Bay of New-York, and to the channel or midway of the said bay ; and to all the waters and the land they cover, lying between the New-Jersey shore and Staten-Island, and all other waters washing the southern shores of New-Jersey within and above the Narrows ; and that your complainants may be quieted

in the full and free enjoyment of her property, jurisdiction and sovereignty, in the waters aforesaid, and that the right, title, jurisdiction and sovereignty of New-Jersey in and over the same, as part of her public domains, be confirmed and established by the decree of this honorable court."

There may be some difficulty in ascertaining from the statements and allegations in the bill, whether the State of New-Jersey intends to claim any thing more than the right of territorial jurisdiction, separate from the right of property in the soil. If the claim be of this description, it will be difficult to find a precedent for its adjustment, either in a court of law or of equity jurisdiction. And if a right of property is asserted, it would seem to be a case requiring a trial at law in some of those actions which have been devised for determining the right to real property. In the one case, a question is presented in relation to the jurisdiction of the court over the subject matter in litigation; and in the other, a question going only to the form of the remedy.

But these were questions of less immediate importance than the one presented by this proceeding, whether the Supreme Court of the United States could exercise original and compulsory jurisdiction over a State. Having at an early day expressed to your Excellency and the Legislature, an opinion that the court could not take cognizance of the suit, I deem it proper on this occasion, briefly to state some of the grounds upon which that opinion was founded.

The Constitution of the United States, (Art. III. sec. 2,) declares among other things, that "the judicial power—shall extend to controversies between two or more States; between a State and citizens of another State—and between a State, or the citizens thereof, and foreign States, citizens or subjects." The 11th amendment to the constitution declares, that "the judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign State." Without considering whether this ought to be regarded as a construction, rather than as an amendment to the Constitution, and conceding that the judicial power of the United States extends to controversies between States, it still remains to be considered, whether the grant of jurisdiction by the Constitution included also the means of carrying it into execution; or whether those means were to be provided by Congress.

The Constitution provides, (Art. III. sec. 1,) that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish;" but neither the number of Judges of which the Supreme Court should consist, or the times or places of their meeting, nor the amount of their compensation, was settled. These, with many other essential things, were left for the determination of Congress, in filling up the great outline that had been marked out by the Constitution. That legislation would be necessary in the organization of the new government, and its several departments, was foreseen and provided for by the framers of the Constitution. That instrument declares, (Art. I. sec. 8, sub. 17,) that "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof." In this provision a distinction is plainly recognized between a power vested by the Constitution in any department of the government, and the necessary means of carrying that power into execution.

There is, therefore, nothing absurd in saying, that a power conferred by the Constitution may remain dormant, if Congress, for any cause shall omit to pass the necessary laws for bringing it into exercise. Had no laws been passed, providing for the organization of the supreme or the other courts of the United States, the whole judicial power would have remained a dead letter in the Constitution. If, after the number of Judges of which the Supreme Court should consist had been fixed by law, and the offices had been filled, no times or places had been assigned by law for their meeting, there would have been Judges, but no court. And if, when that court was duly organized, no process had been given to bring before it the persons to be affected by its judgments; or if process had been given, without the proper officers to execute it, the court would still have been without the means of exercising its constitutional authority.

Such, no doubt, were the views entertained by the members of the first Congress that assembled under the Constitution. They proceeded to pass the necessary laws for the organization of the federal courts, and to provide them with process, and officers to execute their commands. But it is believed, that neither the first nor any subsequent Congress has passed any such laws as were necessary for carrying into execution that portion of the judicial power which extends to controversies between two or more States.

It is a fundamental principle in our laws, admitting of but few and special exceptions, that no court can give a valid judgment until it has acquired jurisdiction over the person of the defendant. In relation to all those suits against individuals and corporations, of which the federal courts have cognizance, it is not denied that they have been provided with the means of acquiring jurisdiction over the persons, (whether natural or artificial,) to be affected by their judgments. But to acquire jurisdiction over a State, it is believed that some other means were necessary than such writs as are "agreeable to the principles and usages of law;" for the reason that there was never any principle or usage of law to issue writs or legal process of any description against a State or independent government. Nor is it supposed that giving "forms and modes of proceeding," in equity cases, "according to the principles, rules and usages which belong to courts of equity," can reach the case of a State made a defendant; for the reason that there were no pre-existing forms or modes of proceeding against a State, nor were there any principles, rules or usages by which a court of equity could acquire jurisdiction over an independent government.

Without going into any particular examination of the acts of Congress relating to the judicial power of the United States, it may be sufficient in this place to say, that the grant of original jurisdiction over a State, was a new and extraordinary power: And if the federal courts could not exercise their ordinary jurisdiction over individuals, without the authority of an act of Congress for that purpose, it must be apparent, that this case called for special legislative provisions. A law giving to the federal courts such "forms of writs and executions," and "modes of process," in the several States, as were then "used and allowed in the Supreme Courts of the same," would sufficiently provide for impleading individuals, but would make no advances towards carrying into execution the power to implead a State.

In the case of corporations, the law had provided the appropriate process for compelling their appearance, and directed the mode in which service was to be made; but against a State or sovereignty, no process for compelling an appearance had ever been devised, nor had any means been pointed out, by which the defendant could be summoned to answer the complaint. It was, therefore, necessary in providing for the exercise of this power, either that some new

writ, summons or process, adapted to the case, should be given ; or that a new quality or efficacy should be imparted to those then in use. It was also necessary to direct in what manner such process should be served ; whether upon the Governor, or some other officer, executive or judicial, or upon the Legislature of the defendant State : whether some person should be required by law to appear for the State, or under what circumstances the court should be authorized to proceed *ex parte*. The means also by which a State should answer the complaint, whether through its Legislature, or some one or more of its executive officers, were all to be provided, for the reason that none of those things were previously known to the laws, or to any forms of judicial proceedings. These are only a sample of the many provisions that seem to be necessary in such a case. Similar difficulties must exist in every stage of the proceeding, and instead of diminishing, they will be found to multiply and increase in importance, in the consideration of the final decree or judgment to be rendered, and the proper means for carrying it into execution.

Although it was not designed, in this communication, to go beyond a brief statement of the leading reasons for the opinion that has been expressed, it may be proper to notice several cases which came before the court between the years 1790 and 1800, in which the court entertained jurisdiction against a State. The case of Georgia against Brailsford, determines nothing upon this question, for the reason that the State was the complainant in the bill, and so a voluntary party to the suit. And in relation to all the cases that came before the court, it is not unimportant to remark that no one appeared to argue against the exercise of jurisdiction ; and in only two of the cases did the court deliver any opinion upon that question. Those were the cases of *Chisholm against the State of Georgia*, decided in February term, 1793, and *Grayson against the State of Virginia*, decided in August term, 1796. In the first case, the leading question discussed by the judges who maintained the jurisdiction of the court, was, whether upon the true construction of the constitution, a State could be made a party defendant, and not whether the means of exercising jurisdiction had been provided by Congress. Mr. Justice Iredell was the only one that entered distinctly into the latter question, and he arrived at the following conclusions : “ 1st. That the constitution, so far as it respects the judicial authority, can only be carried into effect by acts of the legislature appointing courts, and prescribing their methods of proceeding. 2d. That Congress has provided no new law in regard to this case, but ex-

pressly referred us to the old. 3d. That there are no principles of the old law, to which we must have recourse, that in any manner authorise the present suit, either by precedent or by analogy. The consequence of which, in my opinion, clearly is, that the suit in question cannot be maintained."

In the case of Grayson against Virginia, after the service of a subpoena, a motion was made for a distringas to compel the State to enter an appearance ; but the court postponed a decision, " in consequence of a doubt whether the remedy to compel the appearance of a State, should be furnished by the court itself, or by the legislature." Two general rules were finally adopted, the first of which was in the following words : " Ordered that when process at common law, or in equity, shall issue against a State, the same shall be served upon the Governor, or chief executive magistrate, and the Attorney-General of such State." The validity of this rule manifestly depended upon the power of the court to provide the means for impleading a State. It is true, that the federal courts were authorised by statute, " to make and establish all necessary rules for the orderly conducting business in the said courts ;" but it is believed that this was only an authority to regulate proceedings in cases where the court had jurisdiction by law ; and not a power by which jurisdiction could be acquired. The like remark is applicable to another provision, by which the courts of the United States were authorised to make alterations and additions in the forms of writs, and in the forms and mode of proceeding. Congress made direct and appropriate provisions for carrying into execution every portion of the judicial power, except that which related to the impleading of a State. And to place the jurisdiction of the court in this case, upon its power to make rules and regulate practice, is to suppose that Congress intended to do indirectly what it was not prepared to do by direct and specific legislation. And besides, if the power to make rules, and to regulate practice, was sufficient to enable the court to exercise this new and extraordinary jurisdiction over a State, it was most clearly sufficient to enable the federal courts to exercise every other portion of their jurisdiction ; and all the other legislation upon this subject has been useless.

But whether this rule was originally valid or not, it was supposed to be obsolete, for the reason that it was not to be found in any subsequent publication of the rules of the court. This was one of two rules, which originally appeared together, in the report of the case

of Grayson against Virginia ; one of which has been regularly re-published ever since, the other never, until within the past year. Mr. Peters, in his Reports, says, that this omission arose from the fact, that it was not regularly entered by the clerk at the time of its adoption.

The doctrine that the Supreme Court of the United States cannot exercise original and compulsory jurisdiction over a State, has the sanction of much higher authority than any opinion I may entertain upon the subject.

None of the five States sued at the period already mentioned, were suspected either of a want of patriotism, or of attachment to the Union ; yet each of those States, to wit : Connecticut, New-York, Virginia, South-Carolina, and Georgia, neglected or refused to appear and submit to the jurisdiction of the court.

The decision of the court, entertaining jurisdiction, produced great dissatisfaction, and resulted in the adoption, by at least three-fourths of the States, of the eleventh amendment to the Constitution, which put an end to all of the suits then depending, before a final judgment had been recovered in either of them.

This controversy, and others of a similar character, have existed for the last thirty years ; and yet it is believed, that this is the first instance during that period, in which an attempt has been made to implead a State.

It is believed, that the commissioners on the part of New-Jersey, among whom were several distinguished lawyers, manifested their opinion, that the court could not exercise compulsory jurisdiction over a State, by a proposition for a voluntary submission of the matter in controversy to the Supreme Court of the United States. See their letters to the New-York Commissioners of the 15th and 17th September, 1827. Senate journal, 1828, appendix A.

Bills have been repeatedly presented to Congress, " prescribing the mode of commencing, prosecuting and deciding controversies between States ;" but they have never met with the approbation of the Legislature. One or more of those bills were brought in by the Senators from New-Jersey, who are reported to have admitted in the discussion of the bills, as did other Senators who were in favor of

bringing this power into exercise, that the Supreme Court could not exercise this jurisdiction without an act of Congress for that purpose, and that no such act had been passed. And those bills are said to have been opposed and rejected, not on the ground that the court could act without further legislation, but on the ground that the measure was inexpedient; and that the harmony of the Union would be best preserved by leaving dormant in the Constitution that portion of the judicial power which extends to controversies between States.

It is believed, therefore, that it may be truly said, that Congress has not only omitted, but that it has actually refused to pass the necessary laws for carrying into execution the judicial power over a State.

It may not be improper to add, that when this case came before the court, in February, 1830, (3 Peters 461,) neither the counsel for the State of New-Jersey, nor the court itself, treated this as a question that had been already settled, or as one free from difficulty. Mr. Wirt, on behalf of New-Jersey, asked the court to assign a day for the argument of the question of jurisdiction, before another subpoena should issue; saying, "it might, if decided against the plaintiffs, prevent unnecessary expense." And the court did assign a day for the argument of that question: and the Chief Justice added, that "if the argument should be merely ex parte, the court would not feel bound by its decision, if the State of New-York afterwards desired to have the question again argued." The court at a subsequent day, and without argument, awarded further process upon the ground of previous precedents; saying, however, "the State of New-York will still be at liberty to contest the proceeding at a future time in the course of the cause, if it shall choose to insist upon the objection."

This question is distinct from those in which the Supreme Court exercises an appellate jurisdiction, where a State may have been a party in the court below. In all such cases, the State is plaintiff, and so a voluntary party to the original proceeding: and although the parties are reversed in the forms of proceeding in the appellate court, it is still a continuance of the same suit, and cannot properly be said to be the commencement or prosecution of a suit against a State. There is this further distinction, that a writ of error acts only upon the record, and not upon the parties to it. It is directed

not to the party, but to the court in which the judgment was rendered, and directs that the record be sent into the appellate court for review. A citation is issued, but it is only for the purpose of advising the party, that the judgment will be reviewed; and neither an appearance or any other act on his part is required. This jurisdiction does not depend upon the character of the parties, but upon the character of the cause: and its exercise has been amply provided for by the 25th section of the judiciary act of 1789.

I submit herewith, marked D. a copy of one of the bills that have been before the Senate of the United States, on this subject. It was introduced by Mr. Dickerson, one of the Senators from New-Jersey, on the tenth day of January, 1822; and is entitled, "A bill prescribing the mode of commencing, prosecuting and deciding controversies between States." At the close of the paper marked D. another bill upon the same subject, brought in by Mr. Robbins, one of the Senators from Rhode-Island, on the eleventh day of December, 1828, is mentioned, and the difference between the two bills is pointed out. From these bills it will be seen, that the advocates for bringing into exercise this portion of the judicial power of the United States, have considered it a matter of great delicacy and importance, and one requiring very special legislative provisions. Several other bills having the same object in view, have at different periods been presented to Congress, but I have only seen copies of the two already mentioned.

But independent of the opinion which I entertained in relation to the power of the court, this was a proceeding against the State in its sovereign capacity, and involving its territorial jurisdiction. And whether the State should, or should not render a voluntary submission to the proceeding by appearing and answering the complaint, was a question belonging either to the Governor or the Legislature, and not to the Attorney-General, or any subordinate agent of the government. This opinion was suggested in a communication to your Excellency, in July 1829, soon after the suit was instituted, and again in my communication in December following, which was laid before the Legislature by your Excellency, on the opening of the session of 1830.

The bills presented to Congress, for the purpose of carrying into execution that portion of the judicial power which relates to controversies between States, directed that the State made a defendant

should be notified by the service of a certified copy of the bill of complaint, and all documents, upon the Governor or chief executive officer of the defendant State; and that a notification should be served by the marshal on the Legislature of the defendant State, at the time of serving a copy of the bill. Those bills further provided, that no person should be permitted to act for the defendant State, unless legally authorized by the Legislature thereof: and that certain rules should be granted against the Legislature of the State impleaded. These provisions sufficiently indicate, that the advocates for bringing into exercise this portion of the judicial power of the United States, thought such a proceeding of sufficient importance to be presented to the State in its sovereign capacity, and to be acted upon by its Legislature.

The first process issued in the cause was made returnable on the first Monday in August 1829. The Supreme Court of the United States does not sit at that period in the year; but it is a day on which rules may be entered, in the exercise of the ordinary equity jurisdiction of the court. It was thought proper to advise the clerk of the court, that this was not deemed a proper case for entering orders as of course: and a letter was addressed to him on the 27th of July, 1829, a copy of which, marked A, is hereunto annexed. The clerk was requested to lay that letter before the court, should the subject at any time be presented for its consideration.

On the 26th day of December, 1829, I addressed a communication to your Excellency, which has been before mentioned, and which will be found in the legislative documents for 1830, No. 4.

While at the city of Washington in the discharge of other official duties, I was, on the thirteenth day of January, 1830, served with a notice that the Supreme Court would be moved on the thirteenth day of February following, to proceed *ex parte* in the cause, and to take the bill filed by New-Jersey as confessed, and to render a decree in conformity with the prayer thereof. Not having received any instructions to appear in the suit, and thinking it improper to do so without authority, I addressed a letter to the Chief Justice and associate justices of the Supreme Court, on the eve of my departure from Washington, a copy of which, marked B, is hereunto annexed.

When that motion came on to be heard, the Court awarded further process, without passing upon the question of jurisdiction. That process was afterwards served, and was returnable on the second Monday of January last. In my communication on that subject, at the commencement of the present session of the Legislature, it was mentioned that a decision of the question of jurisdiction might be expected at the present term of the Court.

On the fifth day of the present month, a motion was made on the part of New-Jersey, in relation to the further progress of the suit: and an opinion has since been delivered, and an order or decree been made by the Court, copies of which, marked C, are hereunto annexed. The order is, in substance, that the complainant be at liberty to proceed *ex parte*, and that unless the defendant, being served with a copy of the decree sixty days before the ensuing August term of the Court, shall appear on the second day of the next January term thereof, and answers the bill, the Court will proceed to hear the cause on the part of the complainant, and decree on the matter of the bill.

Although this order appears to be absolute, that the Court will proceed to a decree, the concluding paragraph of the opinion will shew that it was not so intended. The language of the opinion, after stating that the Court would proceed to a final hearing and decision, is as follows—"But, inasmuch as no final decree has been pronounced, or judgment rendered, in any suit heretofore instituted in this Court against a State, the question of proceeding to a final decree will be considered as not conclusively settled, until the cause shall come on to be heard in chief."

Two remarks are respectfully submitted upon this opinion.

The Chief Justice and those justices who concurred with him in opinion, have regarded the question of jurisdiction as one that had been previously adjudged; without saying what would be their opinions independent of the former decisions.

The jurisdiction asserted extends only to the power of hearing the parties, while the question of proceeding to a final decree, (without which the litigation, to say the least, would be useless,) is to be considered as not conclusively settled.

It will be seen that nothing has yet been done to prejudice the rights of the State, if it shall be thought proper, either as a matter of duty or expediency, to appear and defend the suit. But if that question is to be passed upon by the Legislature, it ought to be done before the close of the present session.

I am, with great respect,
Your Excellency's
Obedient humble servant,

GREENE C. BRONSON,
Attorney-General.

DOCUMENTS.

(A.)

Utica, (N. Y.) July 27, 1829.

WILLIAM THOMAS CARROLL, Esq.

Clerk of the Supreme Court of the United States.

SIR—

The Governor and Attorney-General of the State of New-York, were recently served with the copy of a bill in equity, said to have been exhibited in the supreme court of the United States, by "*The State of New-Jersey, vs. The People of the State of New-York ;*" and with a subpoena in that cause, to appear on the first Monday of August next.

I beg leave respectfully to say, that such service is regarded, on the part of the State of New-York, as utterly void ; because the mode adopted is unknown to the common law, is not authorised by any statute of the United States, nor warranted by any existing rule or order of the court out of which the process issued. A rule on the subject of the service of process upon a State as defendant, was adopted in August term, 1796, (3 Dall. Rep. 320, 335) ; but this rule, (so far as I have observed,) has been omitted in every subsequent publication of the rules of the supreme court, and is no doubt obsolete.

Entertaining this view of the subject, it is supposed that no proceeding will be had in the cause, either in vacation or at term, until the court shall have directed the mode of serving such process, and the prescribed course shall have been pursued.

Whether the court has been clothed with power to compel the appearance of a State as defendant, in an original suit or proceeding, is a question, (among others,) which will no doubt receive from that high tribunal, all the consideration that its importance demands, before any order shall be made in the premises.

I will thank you to hand this to the court, if the subject shall ever be presented to their consideration ; and should any rule or order be made in, or affecting this cause, please send a certified copy, addressed to me at Albany.

I am sir, with great respect,

Your obedient servant,

GREENE C. BRONSON,

Att'y. Gen. State of New-York.

(B.)

Washington City, Feb. 8, 1850.

To the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States.

A bill has been exhibited in this court by the State of New-Jersey, against the People of the State of New-York, concerning the boundary line between the two States ; and a subpoena to appear and answer, with a copy of the bill, has been served upon the Governor of the State of New-York. A notice has recently been served, that on the 13th instant the court would be moved to take the bill *pro confesso*, and proceed to a decree for the want of an appearance.

I beg leave most respectfully to say, that the opinion is entertained, on the part of the State of New-York, that this court cannot exercise jurisdiction in such a case, without the authority of an act of Congress, for carrying into execution that portion of the judicial power of the United States, which extends to controversies between two or more States.

The Governor of the State of New-York has made a communication upon the subject of this suit to the Legislature, now in session, but it has not yet been acted upon, so far as I have been advised. Whether the Legislature will authorise any person to appear and discuss the question of jurisdiction ; or, whether for the purpose of obtaining a judicial decision upon the merits of an unfortunate controversy, they will order an appearance, waiving the question of jurisdiction, I am, at this time, unable to determine.

I have deemed it proper to make this communication, to explain what might otherwise be supposed a want of respect for this honorable court, on the part of the Executive Authority of the State of New-York.

GREENE C. BRONSON,
Atty. Gen. State of New-York.

(C.)

Opinion and Order of the Supreme Court of the United States.

The State of New-Jersey, against The People of the State of New-York.	}	Opinion and order of the Supreme Court of the United States, deliver- ed by Mr. Chief Justice Marshall.— January term, 1831.
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This is a bill filed by the State of New-Jersey against the State of New-York, for the purpose of ascertaining and settling the boundary between the two States.

The constitution of the United States declares that "the judicial power shall extend" "to controversies between two or more States." It also declares that "in all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction."

Congress has passed no act for the special purpose of prescribing the mode of proceeding in suits instituted against a State, or in any suit in which the Supreme Court is to exercise the original jurisdiction conferred by the constitution.

The act "to establish the judicial courts of the United States," sec. 13 enacts, "that the Supreme Court shall have exclusive jurisdiction of all controversies of a civil nature, where a State is a party, except between a State and its citizens; and except also between a State and citizens of other States, or aliens; in which latter case, it shall have original but not exclusive jurisdiction." It also enacts, sec. 14, "that all the before mentioned courts of the United States, shall have power to issue writs of scire facias, habeas corpus, and all other writs not specially provided by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law." By the 17th section it is enacted "that all the said courts of the United States shall have power" "to make and establish all necessary rules for the ordinary conducting business in the said courts, provided such rules are not repugnant to the laws of the United States."

"An act to regulate processes in the courts of the United States," was passed at the same session with the judicial act, and was depending before Congress at the same time. It enacts "that all writs and processes issuing from a supreme or a circuit court, shall bear teste," &c. This act was rendered perpetual in 1792. The first section of the act of 1792, repeats the provision respecting writs and processes issuing from the supreme or a circuit court. The second continues the form of writs, &c. and the forms and modes of proceeding in suits at common law prescribed in the original act; "and in those of equity, and in those of admiralty and maritime jurisdiction, according to the principles, rules and usages which belong to courts of equity and to courts of admiralty respectively, as contradistinguished from courts of common law; except so far as may have been provided for by the act to establish the judicial courts of the United States; subject however to such alterations and additions as the said

courts respectively shall, in their discretion, deem expedient, or to such regulations as the Supreme Court of the United States shall think proper, from time to time, by rule to prescribe to any circuit or district court concerning the same."

At a very early period in our judicial history, suits were instituted in this Court against States, and the questions concerning its jurisdiction and mode of proceeding, were necessarily considered. So early as August 1792, an injunction was awarded at the prayer of the State of Georgia to stay a sum of money recovered by Brailsford, a British subject, which was claimed by Georgia under her acts of confiscation. This was an exercise of the original jurisdiction of the Court, and no doubt of its propriety was expressed.

In February 1793, the case of *Oswald vs. The State of New-York*, came on. This was a suit at common law. The State not appearing on the return of the process, proclamation was made, and the following order entered by the court—"Unless the State appear by the first day of the next term, or show cause to the contrary, judgment will be entered by default against the said State."

At the same term, the case of *Chisholm's executors against the State of Georgia* came on, and was argued for the plaintiffs by the then Attorney-General, Mr. Randolph. The judges delivered their opinions *seriatim*; and those opinions bear ample testimony to the profound consideration they had bestowed on every question arising in the case. Mr. Chief Justice Jay, Mr. Justice Cushing, Mr. Justice Wilson and Mr. Justice Blair, decided in favor of the jurisdiction of the Court, and that the process served on the Governor and Attorney-General of the State was sufficient. Mr. Justice Iredell thought an act of Congress necessary to enable the court to exercise its jurisdiction.

After directing the declaration to be filed, and copies of it to be served on the Governor and Attorney-General of the State of Georgia, the Court ordered, "that unless the said State shall either in due form appear, or show cause to the contrary in this Court by the first day of the next term, judgment by default shall be entered against the said State."

In February term 1794, judgment was rendered for the plaintiff, and a writ of inquiry was awarded, but the 11th amendment to the constitution prevented its execution.

Grayson vs. The State of Virginia, 3 Dallas, 320, 1st Peters cond. Reports, 141, was a bill in equity. The subpoena having been returned executed, the plaintiff moved for a *distringas* to compel the appearance of the State. The Court postponed its decision on the motion in consequence of a doubt, whether the remedy to compel the appearance of the State should be furnished by the Court itself, or by the Legislature. At a subsequent term, the Court, "after a particular examination of its powers," determined that, though "the general rule prescribed by the adoption of that practice which is founded on the custom and usage of courts of admiralty and equity," "still it was thought that we are also authorised to make such deviations as are necessary to adapt the process and rules of the Court

to the peculiar circumstances of this country, subject to the interposition, alteration and control of the Legislature.

We have therefore agreed to make the following general orders.

1. Ordered, that when process at common law or in equity, shall issue against a State, the same shall be served upon the Governor or chief executive magistrate, and the Attorney-General of such State.

2. Ordered, that process of subpoena issuing out of this court in any suit in equity, shall be served on the defendant sixty days before the return day of the said process; and further, that if the defendant on such service of the subpoena, shall not appear at the return day contained therein, the complainant shall be at liberty to proceed *ex parte*."

In *Huger & al. vs. the State of South-Carolina*, 3d Dallas, 339, the service of the subpoena having been proved, the court determined, that the complainant was at liberty to proceed *ex parte*. He accordingly moved for and obtained commissions to take the examination of witnesses in several of the States.

Fowler & al. vs. Lindsey & al. and *Fowler & al. vs. Miller*, 3 Dallas, 411, were ejectments depending in the circuit court for the district of Connecticut, for lands over which both New-York and Connecticut claimed jurisdiction. A rule to show cause why these suits should not be removed into the Supreme Court by certiorari was discharged because a State was neither nominally nor substantially a party. No doubt was entertained of the propriety of exercising original jurisdiction, had a State been a party on the record.

In consequence of the rejection of this motion for a certiorari, the State of New-York, in August term, 1799, filed a bill against the State of Connecticut, 4 Dallas 1, 1st Peters Cond. Reports 203, which contained an historical account of the title of New-York to the soil and jurisdiction of the tract of land in dispute; set forth an agreement of the 28th of November, 1783, between the two States on the subject; and prayed a discovery, relief, and injunction to stay the proceedings in the ejectments depending in the circuit court of Connecticut.

The injunction was, on argument, refused, because the State of New-York was not a party to the ejectments, nor interested in their decision.

It has then been settled by our predecessors, on great deliberation, that this court may exercise its original jurisdiction in suits against a State, under the authority conferred by the Constitution, and existing acts of Congress. The rule respecting the process, the persons on whom it is to be served, and the time of service, is fixed. The course of the court on the failure of the State to appear after the due service of process has been also prescribed.

In this case, the subpoena has been served as is required by the rule. The complainant according to the practice of the court, and according to the general order made in the case of *Grayson vs. the Commonwealth of Virginia*, has a right to proceed *ex parte*, and the court will make an order to that effect, that the cause may be prepared for a final hearing. If upon being served with a copy of such order, the defendant shall still fail to appear or to show cause to the contrary, this court will, so soon thereafter as the cause shall be

prepared by the complainant, proceed to a final hearing and decision thereof. But inasmuch as no final decree has been pronounced or judgment rendered in any suit heretofore instituted in this court against a State, the question of proceeding to a final decree will be considered as not conclusively settled until the cause shall come on to be heard in chief.

Mr. Justice Baldwin did not concur in the opinion of the court directing the order made in the cause.

The State of New-Jersey, Complainant, }
against
 The People of the State of New-York, De- }
 fendant.

The subpoena in this cause having been returned executed, sixty days before the return day thereof, and the defendant having failed to appear, it is, on the motion of the complainant, decreed and ordered, that the complainant be at liberty to proceed *ex parte*; and it is further decreed and ordered, that unless the defendant being served with a copy of this decree, sixty days before the ensuing August term of this court, shall appear on the second day of the next January term thereof, and answer the bill of the complainant; this court will proceed to hear the cause on the part of the complainant, and to decree on the matter of the said bill.

Washington, Feb. 12, 1831.

I, Richard Peters, reporter of the decisions of the Supreme Court of the United States, do hereby certify, that the foregoing is a true copy of the order and opinion of said Supreme Court, delivered in the above cause by Mr. Chief Justice Marshall, at January term eighteen hundred and thirty-one.

RICH'D PETERS.

(D.)

Bill introduced by Mr. Dickerson of New-Jersey, Jan. 10th 1822.

A BILL prescribing the mode of commencing, prosecuting and deciding controversies between states.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That in all cases where any matter of controversy now exists, or hereafter may exist, between states in relation to jurisdiction, territory or boundaries, or any other matter which may be the proper subject of judicial decision, it shall be lawful for the state deeming itself aggrieved, to institute against the state of which it complains a suit, or suits, in the supreme court of the United States, by bill, in the nature of a bill in equity, stating all the facts, and exhibiting and referring to all papers and documents deemed necessary to substantiate the complaint.

§ 2. And be it further enacted, That all suits by one state against another state, shall be brought, prosecuted and defended, in the le-

gal and proper names of such states respectively ; and all process and proceedings shall be sued out and entered accordingly.

§ 3. *And be it further enacted*, That no suit shall be commenced or prosecuted in the name of any state, as complainant, under the authority of this act, without the order or direction of the legislature of the state suing ; a copy of which, legally certified, shall be filed with the bill in the clerk's office of the supreme court of the United States, at the time of the commencement of the suit ; and it shall, moreover, be the duty of the legislature of every complaining state to provide for, and cause to be appointed, some fit person or persons to manage the prosecution of such suit, and the document or documents by which such appointment is made, or a copy or copies thereof, legally certified, shall accompany the bill of complaint.

§ 4. *And be it further enacted*, That the state made defendant by any suit under the provisions of this act, shall be notified thereof by the delivery of a copy of the bill of complaint, and all documents therein referred to, legally certified by the clerk of the supreme court, to the governor, or chief executive officer of the defendant state, by the marshal thereof ; and there shall, moreover, be issued by the said clerk, a written notification, stating when and where the said defendant state shall enter, in legal manner, appearance to the suit, and answer the bill of complaint ; a copy of which, in like manner, shall be served on the legislature of any defendant state, by the marshal, at the time of serving the copy of the bill and documents above mentioned. And it shall be the duty of the marshal to make due return of the service of such bill, documents and notification, to the clerk of the supreme court, before the day specified for appearance, stating when and where such service was performed.

§ 5. *And be it further enacted*, That no act or proceeding on the part of any defending state shall be permitted, but by some person or persons legally authorised by the legislature thereof, as manager or managers ; and not by such person or persons, until the instrument or document, or instruments or documents, vesting such power, legally certified, is or are filed in the clerk's office of the supreme court.

§ 6. *And be it further enacted*, That the state made defendant in any suit, under the provisions of this act, may, by any answer or answers, as the case may be, state such matters of fact and law, and exhibit such documents as may be deemed necessary in defence ; which said answer or answers shall be filed with the clerk of the supreme court, within one year after notification of suit, in the manner hereinafter directed : *Provided, however*, That the court may, for substantial cause shown, reasonably enlarge the time for filing such answer or answers.

§ 7. *And be it further enacted*, That the persons appointed to prosecute and defend any suit brought under the provisions of this act, shall be considered, to all intents and purposes, as representing the states respectively ; and all and every of their acts of record, in relation to the prosecution or defence of such suit, shall be deemed and held as valid and effectual as similar acts between individual

and individual ; and all notices of the time and place of taking depositions, and of any act or thing necessary to be done or executed in the country, shall be considered and taken to be well served or executed on either side, by delivering to the adverse agent or manager a written notification, as in the case of suits between individual and individual.

§ 8. *And be it further enacted*, That for the purposes of ascertaining boundary lines, objects referred to, and for any other purpose necessary to be done and executed in the country, in relation to any suit brought under the provisions of this act, it shall be lawful for the court to appoint one or more fit persons as commissioners, by order of record, whose duty it shall be, under the pains and penalties consequent upon contempts, to do and perform such act or acts, in the time and manner prescribed in the court's said order, first making oath, before some officer legally authorised to administer oaths, that such commissioners, respectively, will faithfully and impartially execute the duties specified in such order.

§ 9. *And be it further enacted*, That the same rules and principles, which are established by law, equity and practice, in the supreme and circuit courts, in relation to suits by individuals against individuals, shall govern the said court and the parties to any suit or suits, commenced under this act, as to amendments and proceedings, not herein mentioned, and as to the manner of taking depositions, the competency, admissibility, and relevancy, or right of testimony.

§ 10. *And be it further enacted*, That one year after the defendant state shall have filed the answer or answers herein directed, the court may proceed to hear and determine the matter in controversy between such states : *Provided*, Notice of record of such hearing has been previously entered by one of the parties ; and no hearing shall be had after answer or answers filed, without such notice : *And provided also*, That the court, for good cause shown, may enlarge the time for such hearing.

§ 11. *And be it further enacted*, That in case the answer of any defendant state shall not be filed within the time limited by this act, and no cause is shewn to the court why such failure has happened, the court, on motion, shall award against the manager or managers of the defence, if any there be, and in case there is none, against the legislature of such state, a rule to shew cause why the court should not proceed to take and consider the bill as true, and decree accordingly ; which said rule shall be served on the manager or managers, or the legislature, as the nature of the case may require, by the marshal's delivering a sworn, or legally certified copy thereof ; and it shall be the duty of the marshal to make delivery thereof, and certify forthwith to the court, specially, the time and manner of such delivery.

§ 12. *And be it further enacted*, That at the term of the supreme court next after the return of the rule served, as herein before directed, the court may, unless good cause is shewn against such procedure, hear the bill of complaint, consider it as true, and pronounce such decree as may be consistent with the principles of law and equity.

§ 13. *And be it further enacted,* That upon hearing any matter of controversy between states, pursuant to the provisions of this act, the court shall decree to the party succeeding, all legal and reasonable costs of suit, to be ascertained in the manner hereinafter directed.

§ 14. *And be it further enacted,* That it shall be the duty of the supreme court to appoint one or more fit persons as commissioners to ascertain upon oath, and report specially to the court, the amount of all reasonable costs expended in the prosecution of any suit, under the provisions of this act, including as well pecuniary disbursements, as the service of officers ; which said sums the court may adjudge to be paid to the several parties or persons entitled, according to the nature of said report.

§ 15. *And be it further enacted,* That whenever any decree shall be pronounced in pursuance of the provisions of this act, it shall be the duty of the court to cause to be delivered to the governor, or chief executive officer of the state against which such decree is pronounced, a legally certified copy of the decree, with a request from the court, that the same may, in a reasonable time, be executed : to cause the same to be carried into complete effect, to make any order necessary and proper for that purpose, and to issue a mandate or warrant to any marshal or marshals of the United States, requiring him or them to execute such decree in the manner to be prescribed in said warrant or mandate, and to make return thereof as in other cases. And it shall be the duty of any such marshal or marshals, and he or they shall be, and they are hereby authorised, to carry said decree into execution accordingly, and to command and receive assistance, and use force if necessary. And for any services rendered by any such marshal or marshals, in the execution of any such decree, as well as for any other services that shall be by the court required of him or them, the said marshal or marshals shall receive a reasonable compensation, to be adjudged of and allowed by the court.

Bill introduced by Mr. ROBBINS, of Rhode-Island, Dec. 11, 1828.

The title, and the first fourteen sections of this bill, corresponded with the title and first fourteen sections of the bill introduced by Mr. DICKERSON.

The 15th section was in the following words :

“ § 15. *And be it further enacted,* That whenever any decree shall be pronounced, in pursuance of the provisions of this act, it shall be the duty of the court to cause to be delivered to the governor, or chief executive officer of the state against which such decree is pronounced, a legally certified copy of the decree, with a request from the court, that the same may, in a reasonable time, be executed.”

A section was added in the following words :

“ § 16. *And be it further enacted,* That this act shall be in force from and after the passing thereof, for five years then next ensuing, and to the end of the current session of congress in which the said five years shall expire, and no longer.”

No. 56.

IN SENATE,

March 12, 1831.

REPORT

Of the select committee on sundry memorials of the manufacturers and others interested in making salt in the county of Onondaga.

The select committee to which were referred sundry "memorials of the manufacturers and others interested in making salt in the county of Onondaga,"

RESPECTFULLY REPORT:

That the memorialists state that the amount of capital invested and employed in the salt business at the springs in Salina, is about \$1,500,000, and the population dependant thereon, is about 10,000: that the brine is inexhaustible, and the manufacture capable of being extended to any amount, and limited only by the demand: that under the support and encouragement of the national duty of 20 cents on the bushel of imported salt, the works for domestic manufacture have been greatly extended, and the production during the last year nearly doubled the amount of 1826: that the exclusion from the most valuable markets of our own State along the Hudson river and New-York, as well as from the more western markets, is attributable solely to the embarrassing effects of our State duty: that the unexpected withdrawal of that support and encouragement, by the reduction of the duty of 5 cents on the first of January last, and a further reduction of 5 cents on the first of January, 1832, provided for by the act of Congress of 30th April, 1830, compels them, in the prospect of utter ruin to their business, the sacrifice of the capital invested, which admits of no diversion to other employment, and the reduction of their families to extreme destitution, by being dri-

ven from their occupation and subsistence, to appeal to the Legislature for relief.

This reduction they state is greater than the nett value of fine salt at Salina, and "will inevitably, under existing circumstances, expel the home manufacture from the markets of the Hudson, and not improbably from Utica:" that a feeling of dissatisfaction at the State impost upon our salt, amounting to 200 per cent. on the value at the works, (during the last year,) prevails among the consumers in other States, which, unless some abatement is provided, they fear, will be concentrated and produce the repeal of the residue of the United States duty—when the foreign salt, aided by such indirect bounty, "will be transported by the Mississippi, on the Ohio river and canal, to Lake Erie on the one side, by the Pennsylvania canal and rail-roads to Ithaca, in that quarter of this State, and by the River Hudson and Erie canal to Salina itself, without the possibility of prevention on the part of the memorialists:" That the object of the constitutional inhibition, which they believe to be the preservation of the canal revenue, "will be most fully attained by extending to the domestic manufacturer of salt, every facility and encouragement of which it is susceptible, and that its advancement or declension will certainly be accompanied by a corresponding increase or defalcation of the revenue thence to be derived."

They further state, as their confident belief, that a provision for adequate relief to the manufacture, either by amendment of the constitution, or allowance of a premium, would "augment with prodigious rapidity the production, (to which there are no apparent limits,) the tolls on which, and that portion of the tax which may be retained, would surpass the amount received the last year from these two sources."

These facts and opinions, from the characters, intelligence and experience of the men, the committee believe are entitled to much weight in the consideration of this subject; and it will be seen, that the case of the memorialists presents for the consideration of this Legislature, questions of grave import, involving the protection and saving of a capital connected with this manufacture, and which cannot be withdrawn, estimated at \$1,500,000, the subsistence and employment of a population of 10,000, and a large amount of the \$165,000 of annual revenue drawn from our salt, and pledged to the public creditors of the State.

These questions are not now urged by what have been called, the People of the West. They are content with the advantages of price and supply of their salt, which the location of our springs in that region have given them, and are neither sensitive or impatient under the payments which they annually make on account of this duty and tolls, to the revenue of the State. Various propositions have been hitherto submitted to the Legislature from considerations growing out of the policy of encouraging domestic industry and sustaining the manufacturers, and through them, the revenue of the State, but never for the sole benefit of the People of the West. They have a deep interest in the continuance and prosperity of these works, but it has been a fatal mistake of opinion entertained by other portions of the State, that the West would be relieved, any farther than these manufacturers, by such propositions, or that they were restive, or complaining under this duty. Such feelings do most naturally and generally exist where competition is carried on; and (in respect to this manufacture,) where the struggle is maintained to throw off the redundancy of the products of our works, into places occupied by the foreign article. In the markets beyond and contiguous to the limits of the State to the west, and on the Hudson, among our eastern consumers and those out of the State, it may be found in a somewhat excited degree. There the purchase and carriage of their salt, form a large item of expense, which is increased by the amount of this duty, and it is felt, that it would be obtained by them for so much less as is the duty required by and paid to the State. Every proposition which has been submitted, and which the committee will submit, is calculated to aid those sections instead of affording any direct relief or saving, to the western people of our State. To these, the present overstocked state of their market, the inexhaustible supply of brine, the capabilities of the works in their present state, to produce the additional quantity which any change may demand, together with the facilities and advantages of an indefinite extension of the works to meet the exigencies of the most extended market, even the supplies of the whole Union, form a safeguard against monopoly, and a satisfactory assurance that the price to them can never materially increase, unless our works are annihilated. These questions are therefore not of local or sectional importance only, but are equally interesting to every portion of our State, and commend themselves alike to the best attention and consideration of all.

These considerations it may be well to present in advance, on entering upon the embarrassments in which the constitutional prohibition has involved this manufacture. Before the adoption of the constitution, a pledge of the same duty upon salt existed under the law of 1817, before which time the duty had been, from 1812, only 3 cents per bushel. The pledge of 1817, should have been held sacred, but it cannot be denied that it would have been incumbent upon the Legislature in a just fulfilment of that pledge, to have yielded to some abatement of the amount whenever circumstances and charges not then foreseen, had rendered it necessary, in order to save from destruction or materially to increase the revenue from this source. The constitutional prohibition which should prevent such prudential regulations, would seem to be inconsistent with the pledge to the public creditors before existing, and in the construction which has since been given to the pledge of 1817 and 1821, by various acts of the Legislature, both the canal tolls and salt duties have been applied to such new works as were necessary to maintain the most productive condition of both. The expenditure through the agency of the Engineer, estimated at rising of \$30,000, and the annual expenditure for boring or sinking new wells, at Salina, sufficiently illustrate this reasonable construction. This prohibition was adopted in the convention of 1821, not upon the ground of necessity or further security to raise funds, nor doubts of those who had loaned largely to the State, for the pledge then existed to the extent which a prudent foresight of the nature and condition of the subject on the part of the State, or security on the part of its creditors would seem to require. The pledge was satisfactory to those whose money had been advanced upon it, and to the people of the canal region, who were most immediately affected by it. The manufacture was liable to fluctuations and contingencies, and was therefore a subject which could not safely be bound up by constitutional provisions; for the amount of the revenue, as well as the existence of the manufacture, might be dependent upon prudential regulations, and the timely interference of the Legislature. Why then was it adopted?

It was distinctly avowed in debate by the chairman of the committee who reported the salt provision, "that the western part of the State was destined to be the most populous portion of it, and will furnish a majority of the Legislature;" which idea is more forcibly carried out in the language of another influential member of that

body.—“Hercules, said he, is yet young, and may be bound. The lion of the West, of whom we have often heard, is yet a whelp, not full grown; let us then endeavour to curb his ferocious power before he tears us to peices. From five to ten millions are fastened upon us already, from which there is no escape,” &c. These reasons deserve consideration *at this day*, when changes incident to the subject, and beyond our power, have put in jeopardy by reason of this same constitutional prohibition, both the revenue and manufacture; when it must be decided whether the pledge of 1817 does not as distinctly involve the faith and honor of the State, that this source of revenue shall be sustained against any destructive changes as that the revenue derived from it should be inviolably appropriated to the liquidation of the debt; and when, if it be so, that pledge requires some relief at our hands to prevent the inevitable depression, if not ultimate destruction of this revenue.

While it is conceded that the constitutional prohibition seems to look beyond the public creditor, and to provide an indemnity to the State for the canal debt, the duty of the Legislature can not be said to be fully discharged, if destruction is allowed to come over it, when it can be prevented: And although it was adopted in the convention from local jealousies—upon the presumption that the West would, at some day, furnish a majority of the Legislature, who would disregard the pledge of the national faith, and therefore the young Hercules must be bound, so as to curb the ferocious power of his maturity; yet it can not be admitted that any section is released from the duty of providing for its effecting the object of its adoption by such means as will sustain the manufacture, and increase its productiveness. The practical results of years since its adoption, show that such jealousies were unnecessarily entertained, and we have now arrived at that period, when all unite in saying, that the canal debt, instead of being “fastened” upon the people at large, will be liquidated, and with a large surplus, at the proposed times—and, excepting the auction duty, almost entirely by means of the trade, the tolls and the salt duty, of the People of the West. We have no fears now, and we should have no such jealousies on this subject. The canal debt will be paid without drawing one cent from the landholder directly, and then the canals, with all their vast revenues, will be the common property of the State, of the eastern as well as the western people.

But other considerations in the language of prediction, were submitted to that convention, and show that this prohibition was adopted upon further views, which time has proved to be erroneous. It was deprecated, by another able member, "that it was regarded as a local question by gentlemen, in *different parts* of the State. The subject was one in which all parts of the State were equally interested; within ~~THREE~~ years the people of the east would consume the western salt, and the New-York market would be entirely supplied with salt from the western works. It was then sold for twenty-five cents per bushel, including the duty of twelve and a half cents, and when the canals should be completed, this salt would be sold at New-York for less than half the sum then paid at that market; the whole state would then consume no other salt, and every man who purchased a bushel, would pay $12\frac{1}{2}$ cents towards the canal fund." If such predictions had been verified, there would have been little occasion at this day, to have sought relief from the Legislature; but while they aided to impose this prohibition, they have in a great degree, failed in consequence of it. The reason and benefits have failed, and the rule is still held to be inflexible and binding. Large sums as extra price for their salt, which could otherwise have been furnished at a cheaper rate from our works, have been annually paid by "the People of the East," the increase of our works, and the independence of the country upon the foreign manufacture have been restricted and retarded, and the duty and tolls upon salt consumed, which might otherwise have been supplied to the east as well as the west, have been withheld from the canal fund. In this altered condition of the trade, this failure of the predicted extension of this manufacture, which, but for this prohibition, would have naturally and certainly ensued, is there any thing to be found in favor of a strict and inflexible construction of this provision? or can it be doubted, that, if any power over this subject is left with the Legislature within the fair and liberal construction of the pledged faith of the State, it should be exerted at this time to provide adequate relief and encouragement to this most essential and depressed manufacture?

By considering this manufacture in its progress under this embarrassment, the present and past condition of the trade, and the competition with foreign salt which ensued the opening of the canal, the views of the memorialists will be farther enforced, and the necessity of the relief more particularly exhibited.

That the brine of the salt springs is inexhaustible, is a known fact established by years of experiments, and needs no proof.

It is, moreover, the strongest and best in the United States, and probably equal to any in the known world. This fact is strikingly illustrated by a comparison with other brine of our own country, which is successfully manufactured.

At Nantucket,	350	gls. water produce one bushel of salt,
Boon's Lick, Miss.	450	do do
Konemaugh, Pa.	350	do do
Shawneetown, Ill.	280	do do
Jackson, Ohio,	213	do do
Lockharts, Miss.	180	do do
St. Catharines, N.C.	120	do do
Zanesville, Ohio,	95	do do
Kenhawa, Vir.	95	do do
Salina,	45	do do

Since the tests producing the above results, and by the operations of boring, the quality of the Salina brine is farther improved, and 40 gallons of water now produce a bushel of salt.

It may be observed that this quality of brine drawn to the manufactories with the facilities enjoyed at our works, is preferable to the native rock or fossil salt for use. The amount of salt held in solution, is at about the maximum for manufacturing purposes, and the impurities (found also in the solution of the native rock salt) are upon the application of heat in the process of making, precipitated into the bittern pans, in time only to be abstracted by attention and assiduity before the salt begins to form; if therefore the strength could be increased, the product would probably be less pure. The brine is considered by experienced manufacturers, more valuable than would be the rock salt, for the discovery of which, premiums have been offered by the State, and of a quality that cannot be materially improved for any useful purpose. It is obtained at the factories at Salina, for 2 mills upon each bushel of salt, being a charge for pumping, and at the Syracuse and Geddes works, distances in different directions of $1\frac{1}{2}$ miles from the pumps, at the same inconsiderable sum. We have then an inexhaustible fountain of brine of this superior quality, with grounds and space sufficient for any ex

tent of manufactories, capable of producing a supply of salt adequate to the present and future wants of the whole United States.

The salt produced is not inferior to any which is imported into our country; and in support of this assertion, we annex the analysis of Dr. Henry, of various foreign salt, and of Drs. Chilton and Beck, of our own production. Dr. Chilton says, "specimens of coarse salt left with me for examination, and made at Salina in the State of New-York, prove, by a careful analysis, to be muriate of soda nearly pure. One thousand parts, by weight, yielded

994 parts muriate of soda, (pure salt.)

5½ " sulphate of lime,

0½ " muriate of magnesia,

without any sensible deposit of insoluble matter."

Dr. Beck's results.

	<i>Parts.</i>
1000 parts produced muriate of soda,	
Coarse—made at Syracuse by solar evaporation,.....	991
do by Byington, at Salina, made by steam,.....	988½
Fine, common—made by boiling in kettles,.....	980
Coarse—made at Salina, and analysed by Dr. Chilton,.....	994

Dr. Chilton's results.

1000 parts produced muriate of soda,	
Bay salt, { St. Ubes,.....	960
{ St. Martins,.....	959
{ Oleron,.....	965
Boiled from { Scotch, common,.....	985½
sea-water. { do. Lunday,.....	971
{ Lymington, common,.....	987
{ do. calcined,.....	988
Cheshire or { Crushed rock,.....	983½
Liverpool { Fishery,.....	986½
salt. { Common,.....	983½
{ Steved or blown,.....	982½

These tests and comparisons show the quality of our salt to be equal if not superior to any foreign article which reaches our country. If it has been depreciated by those who advocate the reduction of the duty upon foreign salt, or its importation free of duty, it is to be assigned to local prejudices, conflicting interests, or ignorance of the results of such analysis, rather than to intentional misrepresentations of facts.

With an unlimited supply of brine of the very best quality, with manufactories and experience which produce such salt, with convenient lands and accommodation to any extent, what shall limit the amount producible at our western works? In addition to these advantages, every facility of transportation, by means of the canals, the Oswego river and canal, Lakes Ontario, Erie and Cayuga, and the waters of the Susquehannah, the Hudson river and Lake Champlain, seem to be provided, to encourage investments at the springs, and enable the enterprising capitalists and manufacturers to push their product to every quarter of our country. We shall inquire hereafter to what extent the limits which are thus opened to our manufacture, have been occupied by our salt: but is it not strange that no more than about $1\frac{1}{2}$ millions of bushels, during 1829, and about $1\frac{1}{2}$ millions, during 1830, have been produced; while, during the same period, a greater amount of foreign salt has entered the port of New-York alone, under a duty of 20 cents upon every bushel, in addition to the cost, the expense of transportation, and necessary charges?

It may be suggested that the postponement of the production and consumption, predicted in the convention of 1821, is to be attributed to other expenses of manufacturing; but in this also our works will bear comparison advantageously with any others.

It is stated that the cost of manufacturing a bushel of Liverpool salt at the works, is twelve cents, including fuel, labor, &c., besides rent to the proprietor. Upon salt imported into this country must be added, for transportation to Liverpool, 6 cents,
 For freight across the Atlantic, 6
 United States' duty until 1st Jan. 1831, 20
 Cost as above, 12

Making the whole cost at New-York, 44 cents.
 This salt and some of the Salina salt sold in that market in 1823, at 55 cents per bushel.

The cost of fine salt at Salina, is stated to be, average price of fuel, $4\frac{1}{2}$ cents per bushel,
 Labor, 2
 Rent of works and pumping, $1\frac{1}{2}$

 Making, 8 cents.

It may be observed here, that this salt has sold at the works, during the last year, as low as six cents, and from that to ten cents, besides the duty ; but that the business cannot be carried on profitably and honestly for less than ten cents a bushel, at the works. At this price covering a profit, it is two cents less than the above foreign article. Upon salt transported on the canal to the Hudson river, must be added, for State duty, per bushel, $12\frac{1}{2}$ cents,

Canal tolls,.....	$2\frac{1}{2}$	
	—	15
Freight,.....	6	
Other charges,.....	3	
	—	9
<hr/>		
Charges principally cash advances, per bushel,.....		24 cents,
Add cost at Salina,		10
		<hr/>
Cost of Salina salt at Troy and Albany,.....		34 cents.

Cost of coarse salt at Salina is estimated at a small advance upon that of the fine ; and Syracuse coarse salt, costs twelve cents, and sold there, at.....			15 cents,
Duty,			$12\frac{1}{2}$
Canal tolls,.....			$2\frac{1}{2}$
Freight,.....			6
Other charges,			4
			<hr/>

Cost of coarse salt at Troy and Albany, 40 cents.

These estimates are made upon the prices of fuel, labor, &c., and the improvements in the manufacture of latter years, and may be considered as fair for years to come. The eight cents for fine, and twelve cents for coarse salt, show that we can manufacture at as cheap a rate as the article can be made at any foreign works ; and the above comparisons and estimates show also, that the business of transporting our manufacture to the Hudson, can be carried on with some profit, if the article will command there, at ready sales, thirty-four cents for fine and forty cents for coarse salt.

The above estimate is upon the statute bushel of 56lbs. ; and in respect to our fine and the Liverpool blown salt, the statute and measured bushel is about the same. The duty in all cases, is paid upon the statute bushel ; but the measured bushel of the Syracuse coarse salt, like the best of foreign coarse salt, weighs 76 pounds :

and the estimate of forty cents, would make the measured bushel fifty-four cents. The Salina coarse salt weighs 70lbs. to the measured bushel, and the estimate of thirty-four cents, would make the statute bushel forty-three cents. At these prices the business would continue and increase.

The advantages of ten cents on the bushel of fine salt, and the prices at which salt was selling on the Hudson river at and after the opening of the canals, enabled our salt to enter into competition with the foreign, successfully; and some of it has found a market every year since, at those places. But the competition on our part, has been carried on for some time past at minimum prices, or near to actual cost. Our salt has sold at Albany and Troy at the same prices of St. Ubes coarse, and Liverpool fine salt. During the year 1824, the prices for the foreign and our own coarse salt, was pretty steadily fifty-four cents per bushel. In the years 1825, 1826, and 1827, the price of Syracuse coarse salt, may be stated at fifty-two cents, and of the Salina coarse salt, at from fifty-two to fifty cents. In 1828 the price was forty-eight cents for Syracuse, and forty-six for Salina. In 1829, for Syracuse, forty-seven cents, for Salina forty-one cents. In 1830, for Syracuse, forty-four cents, for Salina, forty cents. The disparity between the prices of these two articles, arises principally, from the difference in weight of the measured bushel, and also from the ability of the Syracuse coarse Companies to hold on to the article for better prices. During the years 1828, 1829, and 1830, the price of our fine salt and of the Liverpool blown salt, was from thirty-two to thirty cents the bushel; but it is to be remarked, that the principal amount of the quantity which reaches tide water from our works, is the coarse salt, while it may also be said, that the fine salt finds a readier and better market westward.

It appears from a comparison of these prices, that during the three last years, but little, if any profit, could have been made either by the dealer in the domestic or foreign article, and that a direct loss was encountered during the last, upon the article in the markets at and north of Albany. During the first four years of access to the Hudson, by means of the canal, the state of the trade and prices warranted the belief that the predictions which influenced the convention of 1821, would be realised. The works rapidly increased in number and productiveness, and from 1822 to 1825, two companies,

relying upon the prospects of a sufficient market, and the advantages at our springs, each invested \$50,000, in manufactories of coarse salt by solar evaporation ; while at the villages of Salina, Geddes, and Liverpool, workshops, investments and improvements, producing more and better salt, more revenue, more employment, and a great increase of population and incidental business, were annually made. While these improvements were making, the foreign and our own salt commanded steadily and readily fifty-four cents ; but the prices for subsequent years show how soon they declined when our capabilities for production were enlarged.

During the last year there arrived upon the canal, at Whitehall, 125,000 bushels ; of which 56,600 bushels were of the quantity stated below to have arrived at Waterford, and the residue was of the quantities which are stated below to have arrived at Albany and Troy.

There arrived of western salt, at Waterford,	60,095 bushels,
Troy,	76,115
Albany,	42,601
	<hr/>
	178,811 bushels,

being the whole quantity of our salt which arrived at the junction of the canal and Hudson river. During the same year the quantity which passed the office of collector of tolls at Utica, was 375,510 bushels ; being 27,276 bushels more than the whole manufacture of 1816, and paying \$46,938.75 of duty, besides tolls.

Hence it appears that 178,811 bushels passed the junction, and found a market at Albany, and at places north of it, and that 196,700 bushels found a market west of the junction, and east of Utica. The amount of western salt sold at places south of Whitehall, down to Albany, could not have exceeded 54,000 bushels.

Of the foreign salt, during the same period, it is estimated that the purchases by the Troy merchants and others, and brought up in

Troy sloops, was.....	100,000
And at Albany,.....	30,000
Lansingburgh,.....	20,000
Waterford,.....	20,000

Making	<hr/> 170,000
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bushels brought to Albany and above it. These are measured bushels, and may be estimated at 220,000 statute bushels, of 56 lbs. paying a U. S. duty of 20 cents upon each.

It thus appears that notwithstanding our advantages for producing a supply, a much greater quantity of salt manufactured abroad, transported to New-York, and subject to a duty of 20 cents, has been sold at the northern markets of our own state, than has found its way to the same places from our own works situate upon the canal, and within 160 miles of tide water. This view of the trade to the east, shows the practical operation of our duty upon the manufacture. The same effect upon it, by reducing the supply formerly furnished, and by restricting the limits of the market at the "far west," has been produced by the same cause. If a reduction of the duty had been provided by a premium or draw back, or if this prohibition had applied to a duty which would have enabled our salters to furnish our production at a price somewhat less than the foreign salt, they would have vended in the east the supplies for the Hudson river, and that portion of Pennsylvania near and upon the Hudson and Delaware canal, for lake Champlain, and the western part of New-England, a large amount for New-York city and a part of New-Jersey, estimated at the lowest to be 1,000,000 bushels, besides furnishing to the markets beyond the western limits of our State and in Canada, an additional 2,000,000 of bushels, which our works, in their present extent, are capable of producing. The above estimates and comparisons are brought down to the close of the last year, when both articles were selling below their actual cost, and enable us to judge also of the condition of the trade at the opening of the ensuing business season.

Upon looking to the estimate of the cost of foreign salt, at 44 cents, and upon which the importer was realising a profit of 10 cents from 1824 to 1827, inclusive, it is impossible to believe, that any profit could have been realised at the prices of the two last years. As early as 1828, it was down to 46 and 48 cents, and if to the costs stated, any thing is added for storage, river transportation, commission, and other necessary charges, an actual loss must have been sustained that year.

That loss was further augmented during each of the succeeding years. It is, however, stated that the dealers in foreign salt have two advantages, which have enabled them to continue the competition. The one is the credit of nine months which he receives upon the duty payable to the General Government, and which is denied to our salters. The State duty is always payable in cash, before the salt is allowed to be taken from the reservation. The other is in

the fact that salt is transported as ballast, and may be so advantageously imported without paying freight. These advantages being considered, it will be found that in 1828, the price did not afford any profit; and the reduction of 1829, and the farther depression of prices in 1830, must have made it a losing business. We have before remarked, that in the state of the trade in both articles, and in reference to each, the reduction of the United States duty acts as a bounty in favor of foreign salt, while ours remain under the oppressive operation of the State duty. The dealer in the foreign article has encountered the sacrifices attending his operations, and since the opening of the canal, has yielded first his profits, then his freight, and then encountered a direct loss in his sales; but he has also effectually checked, by a reduction of price, the threatened advance upon the seaboard, and occupation of our own markets by our own production. This indirect bounty enables him to look forward with confidence to the opening of the ensuing spring business, and the entire exclusion of our salt from tide water, unless adequate relief be furnished by this Legislature.

The business will open with the navigation in the spring, and carrying with us the recollection of the condition of the trade at the close of the last year, the depressed productiveness of the present works in comparison with their capabilities, the prices to which competition in the trade of both articles has reduced the foreign and domestic salt; and then the foreign will meet our salt at Troy and Albany, under the reduction actually of five cents, and in effect twice that sum of the United States duty, enabling an underselling to that amount below the prices of 1829, and below the actual expense of our salt upon tide water. This statement of the case shows to what extremities this important manufacture is reduced; and to complete the ruin, it is only necessary to suppose the repeal of the remaining United States duty, an event as probable as was the reduction two months before it was made; and the 20 cents thus thrown in favor of foreign salt, will enable it to reach Salina, and compete with our own upon its place of reduction.

It may now be calculated for all practical purposes, that the reduction of duty upon foreign salt is 10 cents. Now our fine salt costs at Utica, 28½ cents, and at Troy, 34 cents per bushel; coarse salt, at Utica, 33½ cents, and at Troy, 40 cents per bushel; or in measured bushels at Utica 45, at Troy 54.

In 1830, fine salt sold at Troy for 32 cents, and coarse at 44 cents, both foreign and domestic. Deduct 10 cents from these prices, and foreign salt at Troy remains at 22 for fine, and 34 cents for coarse; the former sum the price of our fine salt and the State duty at Salina, and the latter only $4\frac{1}{2}$ cents less than the price of our Syracuse coarse salt and State duty at the works; but the former is $5\frac{1}{2}$ cents less than our fine salt, and the latter is 11 cents less than our coarse salt at Utica. The expense of tolls and freight in return boats from Troy to Utica, is estimated at 11 cents; and hence it appears that the reduction of the U. States duty upon the prices of last year at Troy, enables the foreign salt to reach Utica at the same price as our coarse salt. But the additional expense of freight and tolls to Salina, is stated to be only $7\frac{1}{2}$ cents; and a repeal of the remaining duty of 10 cents would carry it to Salina, and it then would be sold at that place and Utica at a greater profit than could our own manufacture. This latter event could not be prevented by an increase of tolls, if, as is stated, it could be transported over land for 20 cents a bushel.

We have not been able to ascertain the amount of foreign salt brought to Albany and its vicinity during the year preceding the last; but a comparison of the amount of our salt which passed Utica that year and the last, shows what is undoubtedly the fact, that a less quantity of foreign salt entered these places during the last year, than did the year preceding. It is above stated that the

Amount passing Utica in 1830, was 375,510 bushels;

“ “ 1829, 337,585 “

The quantity of our salt being less by 37,925 bushels in 1829 than in 1830; this deficit of supply was made up of foreign salt. This comparison serves also to show the annual advances of our salters towards supplying the eastern markets with our production, notwithstanding the annual reduction of the price of salt. It cannot be denied that the advantages of manufacturing and supplying the home consumption from our works, have fallen into the hands and direction of men capable of seeing their own interest; enterprising and able to push the competition to the utmost limit of place and price which it would bear, and encountering direct loss rather than recede from the advances made by them, or relinquish the ground upon which they had once gained any foothold. By the reports of the State officers at Salina, the

Amount inspected in 1828, was 1,160,888 bushels;

in 1829, 1,291,820 “

in 1830, 1,435,446 “

In the report of 1830, they say of the year 1829: "The number of manufactories has been considerably increased, notwithstanding the extreme depression of the price of salt did not appear to authorise such expectation. This reduction of price is not to be wholly attributed to the overstocking of the market, which has no doubt taken place; but arises also from the improved skill in the structure and management of the factories, and from the better supply of brine, &c." "The works, in their present extent, are capable of making, *and if the market were sufficiently extended, would make 3,500,000 bushels annually.*"

This last remark, which is undoubtedly true, while it exhibits in a striking manner the impolicy of the amount of the tax upon this home production of prime necessity, shows what may be done by allowing a bounty which shall countervail the effect of the reduction in fact and provided for, of the United States duty, and furnish a market sufficiently extended, to require the additional two millions, or a considerable portion of it, which our factories, in their present extent, are capable of making, over the present production.

We do suppose that we have shown, by the preceding statement of expenses, duties and prices, the state of supply of the trade and markets, that a premium is necessary to enable our salters to continue the present production and payment of revenue; and that unless such relief be afforded, the foreign salt will drive them entirely back from the tide waters, and probably divide the market as far west as Utica.

We think that the spirit of the competition carried on at the markets near the junction of the canal and Hudson, would lead the foreign dealer to push his advantages till our salt has receded from every point now supplied by it, which he can reach: and it is shown by the above statements, which we have every reason to believe, that he can reach Utica upon better terms than can our salters, and there compete with advantages in his favor decidedly greater than he did at Troy, during the last year. The amount imported during the last year, was greater than during any preceding year.—

It was in 1830,.....	6,495,409 bush.
1829,.....	5,945,547 "
1828,.....	3,962,957 "
1827,.....	4,320,489 "

It is certain that no direct profits could have been realized from the prices of last year at the markets referred to, and perhaps

it needs no proof, that sacrifices have been before encountered by those interested in the manufacture and trade of other foreign articles, to crush our own in their infancy or growing prosperity. The disadvantage of having our salt driven from the market at Utica, is not only the introduction of the foreign to the amount which passed that place during the last year, being \$75,510 bushels, upon which the State received in duties the sum of \$46,938.75. But such contracting of the present market, which has taken up but $1\frac{1}{2}$ millions out of $3\frac{1}{2}$ millions, which the works are capable of producing in their present extent, will inevitably lead to their being stopped, with the probable destruction of the works and investments, and the bankruptcies of our manufacturers. In such an event, the annual sacrifices necessary to effect it, would soon be compensated in the additional price which every consumer of salt (and who in this land is not such?) would be compelled to pay upon every bushel consumed.

We feel authorised to insist that the amount passing Utica, is greatly in hazard; and if it should be answered from any quarter, that the advantages to the west from the canal should satisfy all claims upon the State, for aid in extending this valuable manufacture; still it may be urged that a revenue of \$46,938.75, annually, is involved in this subject. The faith of the State is pledged to guard and sustain that revenue, as well as that it shall not be diverted; and upon all depends the just and rational redemption of that pledge. This money is the property of the whole people, and their representatives, bound to advance their prosperity and protect their interest, can not resist the conviction of their deep interest and stake in this question.

The committee believe, that a premium or drawback, of 7 cents per bushel, upon our salt which shall pass the Collector's office at Troy and Waterford, will be adequate to the present necessities of this manufacture and trade, and should be provided for by this Legislature. Such a provision will counteract the effect of the reduction of the U. S. duty; it will renew the prospects and restore the confidence of our manufacturies; it will enable them to continue the works, and will preserve the large amount of the annual revenue from our salt.

Is it not a singular feature in our civil polity, that a home production of universal use and value, capable of being extended to 20 millions of bushels annually, with all its concomitant advantages of

revenue to the State, and employment and sustenance of our people, should be excluded from our own best markets, by our own tax upon it? The commercial emporium of our country, the great mart for all productions foreign and domestic, is closed against it by our own act. We have not the power to exclude any other salt except our own from that market, and we have so loaded our own with duty as effectually to shut out supplies to that market and its dependencies, to the amount of a million and a half annually, for the last five years, while the same tax has prevented a like amount from being produced and supplied to Pennsylvania, Ohio, Michigan, and Canada.

This State tax, in the competition in salt, which has been carried on in every quarter, and particularly on the Hudson, operates as a bounty upon the salt not subject to it. So has the United States' duty upon ours; but when competition has reduced both articles to prices barely covering or falling short of actual cost, the withdrawal of the tax upon either, acts as a bounty in its favor, and gives it an ascendancy. If in 1828, a reduction of our duty or a premium to any considerable amount had been provided, a farther reduction of price would have ensued, and an entire occupation of accessible markets been made by our salt. The present reduction of the United States duty, will give the same advantage to the foreign salt unless counteracted by the bounty proposed.

The State duty increases the price of salt, and compels the consumer, where the competition is carried on, to pay so much more as extra price for his salt. The supply of foreign salt for the Hudson river, which the premium proposed would enable our sellers to furnish, is equal to 1,360,000 statute bushels, and this extra price of $12\frac{1}{2}$ cents, amounts to \$170,000. If 7 cents premium be allowed, there will remain $5\frac{1}{2}$ cents of duty, which, with the canal tolls of $2\frac{1}{2}$ cents on this amount, will make \$108,800 to be paid to the State, none of which is now received. If we allow upon this amount 2 cents for the average expense of transportation on the river, amounting to \$27,200, there remains as a saving of extra cost of salt, of \$74,800, paid annually by the river counties, in consequence of the present duty. This fact is calculated to have its effect. It shows the means at hand for adding \$108,000 to our revenue, and of saving an actual expense of \$74,800 in an article of prime necessity to our citizens dependant upon the Hudson; both of which sums are now wasted upon the foreign article. And in connexion with this view, it may be

again remarked, that the eastern portions of our people are, if we except those directly interested in or dependent upon the manufacture, principally to be benefitted by the proposed measure. They will receive their supply of salt at a cheaper rate, and the western people will not be affected by it only so much as the sources of their supply are sustained which might otherwise fail.

This duty has moreover, defeated one of the primary objects of the canal, one important consideration in favor of undertaking and continuing the system of internal improvements; the encouragement of domestic industry, and productions, by a cheap transportation to market. The production and the transportation of salt, have been prevented by this duty. But the effect of this, appears in a new light when traced in its operation upon the eastern people. The other productions of the west, particularly their wheat, and other agricultural articles, have, by means of the canal, come into competition with the like articles which are produced in the east, and besides reducing their prices, have lessened the value of the farms in those counties. In respect to our salt, which is perhaps, the only essential article which is not a common product of the east and the west, this duty acts as a prohibition to its transportation, and they lose in consequence, an annual advantage exceeding, as above stated, \$70,000. A calculation carried forward to the year 1845, when the debt to which the salt duty is pledged, is to be paid, would show rising one million of dollars.

The low price of six cents, at which salt has been sold during the last year at the works, produced by the overstocked market, and by frauds, to which the present high tax is a temptation, accounts for the increased amount sold during the season. It is seen also, that this increase has in part, passed Utica, and arrived at tide water, and that the price of foreign salt has borne a consequent depression. Such is the effect of extending the market and reducing the price, which would result from the premium proposed, and is illustrated by this casual and temporary reduction of price.

Another desirable effect of the bill which we shall submit with this report, will be an improvement in the condition or quality of the salt, upon which the premium shall be allowed. If any just charge against its quality has existed, it has grown out of the process of drying, used by the manufacturer. By allowing the premium only upon salt, which shall be made perfectly dry by stoving or otherwise, this defect will be effectually cured, because it will be

the interest of the manufacturer, as well as the duty of the Inspector, to have the salt conform in all respects, to the requirements of the law.

The committee are fully impressed with the embarrassments which attend the question, out of what funds shall the premium be paid? But they will observe, that the time has arrived, when no intelligent individual of the State, doubts the adequacy of the means provided for paying off the canal debt. There are accumulating from this source, large sums annually. These are more than a proportional part of the whole sum necessary to be laid up to pay off the debt at the times it shall become due; and the sources cannot fail in the requisite annual contribution. Under these circumstances, no one who entertains the opinions above expressed, would hesitate to draw from this overflowing fund, the necessary amount, were it not for the constitutional prohibition. The views of the committee on this provision of the constitution, have been sufficiently expressed. The funds inviolably appropriated will pay that debt; this cannot be doubted. It is equally certain that, besides paying the debt, there will be an annual large surplus. Is this surplus also appropriated?

But we also believe that this premium would increase the productiveness of the works, and the amount of salt sold in places where, under the present duty, our salt cannot be carried. If so, we ask, Is not the allowance of such a premium, a prudential regulation to increase the revenue, and like the annual expenditure for boring and in erecting the necessary pumps and offices, manifestly within the true and liberal construction of this article?

We also think that it cannot be doubted, that unless this premium is allowed, a great amount of the revenue, probably upon most of the salt which passes Utica, and for the last year producing \$46,938.75, will be lost to the State. If the canals should require a new feeder, would we not take of the fund for that purpose, as an expenditure necessary to preserve or increase the productiveness of the tolls? Or if the brine of the springs should fail of the usual supply, should we not draw from this source the necessary means to save the loss and restore the supply?

If, however, the committee should differ with the Senate in this opinion, they submit that the creation of a stock chargeable upon the fund now subjected to this constitutional prohibition, out of

which the premiums shall be paid, cannot be subject to any such objection. This mode of providing for the present necessities of this manufacture, is clearly within the power of the Legislature, and sound discretion requires the exercise of that power.

It is proper that the committee should state the fact that for the last four years, a premium of three cents upon the statute bushel of coarse salt which has reached the Hudson, has been paid out of the general fund, and that such payment is limited to and ceases with this year. Its effect upon the quantity of salt transported to the Hudson, should have been noticed above, but the statement of the fact, will readily suggest the effect.

The committee present herewith, a bill conforming to their views.

GEO. B. THROOP, *Ch'n.*

IN SENATE,

March 17, 1831.

REPORT

**Of the committee on the judiciary, on the petition of
sundry aliens.**

Mr. Benton, from the committee on the judiciary, to which was referred the following petitions, to wit :

1st. The petition of Joseph Stuart, an alien, residing in the county of Madison, praying for the passage of an act, authorising him to take, hold and convey real estate, and to confirm and vest in him, his heirs and assigns, the title of certain lands of which he has heretofore taken a conveyance in fee.

2d. The petition of Joseph Ross, an alien, residing in the county of Orange, praying for the passage of an act, authorising him to take, hold and convey real estate ; and it appears, that the said Ross has purchased and taken a deed for certain real estate in the county aforesaid.

3d. The petition of George Duckenfield, an alien, praying for the passage of a law, authorising him to take, hold and convey real estate, and also to confirm such purchases and sales as he may have heretofore made,

REPORTED AS FOLLOWS :

As the questions presented for consideration, in each of the cases are substantially the same, they will be examined and disposed of in one report, so far as the same may depend upon the committee.

Will the Legislature pass laws specially authorising resident aliens to take, hold and convey real estate, within this State ?

The committee suppose this question is fully and definitively answered in the negative, if upon examination, it shall appear that no legislation is necessary, in order to confer the power in the cases embraced in the petitions referred to the committee, in order to future acquisitions.

By the existing provisions of the Revised Statutes, (and such has been the law since 1825,) a resident alien, upon making and filing in the office of the Secretary of State, a deposition or affirmation, in writing, in the manner prescribed therein, stating that he resides in this State, and intends always to reside in the United States, and that he has taken proper incipient measures to obtain naturalization, is authorised and enabled to take and hold, convey and dispose of real estate, within this State, to the same extent in relation to his power, as if he were a native citizen, for the term of six years thereafter. But such alien, taking under the foregoing provisions, cannot lease or demise any of the real estate acquired in pursuance of these provisions, until he becomes naturalized.

The act of naturalization, within the time limited, perfects the title in the alien, as effectually as if there was no limitation fixed by the act. The title of the alien purchaser is subject to be defeated by the claim of the State, only in the event of non-naturalization. If the alien convey within six years, although not naturalized, the title of the grantee or assignee is perfect, and if such alien shall die within six years after making and filing such deposition, leaving heirs inhabitants of this State, they take by descent, and hold any real estate whereof the alien died seised. The necessity of a more enlarged power than is given by the existing law is not perceived by the committee.

But it seems from the statements contained in the above petitions, that each of the above persons have taken, or attempted to take, real estate by purchase, without conforming to the above requisitions; and § 17 of tit. 1, ch. 1, part 2, declares that such alien shall not be capable of taking or holding any lands or real estate, which may have descended, or been devised or conveyed to him, previously to his having become such resident, and made such deposition or affirmation as aforesaid. The provisions of the act of 1825, in this respect, are the same. The conveyances of the persons named in the petitions, having divested the grantor of his title, the claim of the State immediately attached to the lands embraced in the deeds, and the right and interest of the people of this State

cannot be divested except upon a vote of two-thirds of all the members elected to each branch of the Legislature.

It has been held by our courts, that at common law an alien could take lands by purchase, though not by descent ; he could not take by the act of law, but he might by the act of the party. It will, however, be observed, that the common law rule is changed or altered, for such alien cannot now take by the act of the party. The act expressly inhibits him from taking and holding either by devise, descent or purchase, previous to his filing the deposition. Previous to the Revised Statutes taking effect, it is supposed that an alien could not be divested of an estate taken by purchase, on the ground of alienism, but by inquest of office ; but that proceeding having been abolished, as is believed, by the Revised Statutes, the alien in possession will now be subject to be ousted of his possession upon a recovery in an action of ejectment. If these views are in accordance with existing law, it is evident that all the lands purchased by, or now held by the petitioners, have actually and technically escheated to the people of this State. The committee would here remark, that they have not been furnished with any evidence of the publication of notice of application to the Legislature for the passage of a law releasing the right and interest of the State to the real estate and lands mentioned in the petitions. At the last session, the Senate, upon an application like those now under consideration, determined that such notice was necessary, and refused to pass an act releasing the interest of the State, until the notice and proof of publication was furnished.

In the case presented by the petition of George Duckenfield, his concurrence does not seem to be necessary in order to vest in Nathan Marble, a perfect estate. It does not appear that said Duckenfield has now any interest in the lands, and the question of right is now between the State and Marble. In the case of Joseph Stuart, it appears by the petition that the lands were purchased by him previous to 1825 ; and although the circumstances of this case may not present every legal question that would arise under the act of 1825, still it is not perceived that any relief can be given, unless notice of the application shall be published, and evidence furnished as in other cases.

Entertaining an opinion that no legislation is necessary to the power prayed for ; and that the Legislature will not release right and interest of the State, except upon due notice of

petition being given, the committee submit to the Senate the following resolution :

Resolved, That the prayer of the above named petitioners ought not to be granted, and that they respectively have leave to withdraw their petitions.

Resolutions accompanying the Governor's Message.

COMMONWEALTH OF MASSACHUSETTS.

EXECUTIVE DEPARTMENT, *March 17, 1831.*

SIR,

In discharge of an assigned duty, I have the honor to address to you the accompanying resolutions, passed by the Legislature of this Commonwealth at their present session, with a request that you would be pleased to present them to the consideration of the Legislature of the State over which you preside.

With sentiments of great respect,

Your obedient servant,

LEVI LINCOLN,
Governor of Massachusetts.

HIS EXCELLENCY THE GOVERNOR OF NEW

COMMONWEALTH OF MAS

IN THE YEAR OF OUR LORD, ONE THOUSAND
THIRTY-ONE.

WHEREAS certain late proceedings of the
are of a nature to create very serious apprehensions among
the good people of the Union, respecting the
of our civil institutions : And,

WHEREAS it is the right and duty of the
of the people, while they carefully avoid
the courts of justice in any case that may be
express their opinions with freedom upon
political agents, and upon the general conduct
ever the occasion may appear to require :

1. *Resolved, by the Senate and House*
the federal constitution, the laws of the United
States, are the supreme law of the land ; and
the States are bound thereby, any thing in the
State to the contrary notwithstanding.

2. *Resolved, That the judicial power of the United States*
to all cases in law and equity, arising under
of the United States, and the treaties made
and that no State can rightfully enjoin upon

disregard or resist by force any process or mandate which may be served upon it in such cases in due form of law, by authority of the courts of the United States.

3. *Resolved*, That it is the duty of the President of the United States to take care that the constitution, the laws of the United States and the treaties made under their authority, are faithfully executed, any thing in the constitution, laws or acts of any State to the contrary notwithstanding.

4. *Resolved*, That the senators and representatives of the State of Massachusetts in Congress, be, and they are hereby requested and instructed to use all the means in their power to preserve inviolate the public faith of the country, and to sustain the rightful authority of the Government of the United States in all its departments.

5. *Resolved*, That His Excellency the Governor be, and he hereby is requested to transmit a copy of these resolutions to the Governors of all the other States, to the end that they may be submitted to the Legislatures of the same for their consideration; and also to the senators and representatives of the State in Congress.

IN HOUSE OF REPRESENTATIVES, March 14, 1831.

Read twice, and passed as amended.

Sent up for concurrence.

W. B. CALHOUN, *Speaker*.

March 14, 1831.

Read and concurred.

SAMUEL LATHROP, *President*.

MARCH 14, 1831.

Approved,

LEVI LINCOLN.

on,

of the Commonwealth.

IN SENATE,

March 19, 1831.

REPORT

Of the select committee, on the communication of Samuel M. Hopkins, relative to the conduct of Elam Lynds, late Keeper of the Sing-Sing Prison.

Mr. Bronson, from the select committee to whom was referred the communication of Samuel M. Hopkins to the Senate at their last session, in relation to the conduct of Elam Lynds, late keeper of the Sing-Sing prison,

Reported as follows:

That in accordance with the resolution of the Senate, passed April 16th, 1830, they have continued, during the vacation, and since the sitting of the present Legislature, to investigate the charges made by Mr. Hopkins against Mr. Lynds; in the progress of which, they have devoted a week at Sing-Sing to the examination of witnesses; have examined Messrs. Tibbits and Allen, late Prison Commissioners, and associates of Mr. Hopkins, together with several other witnesses aided throughout by Mr. Hopkins, who has generally i witnesses, as well as the subject to which they were testify, and has in most cases assisted the committee in tions:

The documents in this matter have accumulated on the committee in such numbers and magnitude as to p difficulty in condensing their contents to a reasonable c at the same time in presenting to the Legislature such much as will render them intelligible; to this object t the committee will be directed.

With this view, they will briefly refer to the history of our prisons under the keeping of Mr. Lynds, and the supervision of Mr. Hopkins and his associates Messrs. Tibbits and Allen, from 1824 to 1830.

At the former period, the three gentlemen above named, were constituted a commission by the Legislature to visit and inspect our prisons; when they found the Auburn prison, under the keeping of Mr. Lynds, in such condition as drew from them in their able and widely circulated report, unqualified approbation of the keeper's talents, integrity, and system of discipline. But even their approbation and authority could not shield him from suspicion; and his conduct and character were subjected to the ordeal of popular scrutiny; but they came safely through, and he finally established for himself, and the prison committed to his charge, a reputation of which he might well be proud.

It was at this time, and under such circumstances, that the Commissioners, in conjunction with Mr. Lynds, projected the construction of the Sing-Sing prison, in place of the old New-York prison; and they presented plans and estimates to the Legislature, and undertook the superintendence as a building committee, on the express condition that Mr. Lynds would undertake the bold, daring, and difficult enterprise of constructing the prison on a marble quarry, in an open field, with the labor of convicts, unshackled and almost unguarded.

The work was accordingly undertaken, and went happily forward to its final completion under the most happy auspices, reflecting great credit upon both Commissioners and agent. Unfortunately, however, after this was accomplished, the cells filled with convicts, and a period nearly four years from their first and favorable acquaintance with Mr. Lynds, two of the Commissioners, Messrs. Hopkins and Tibbits, began to suspect the integrity, faithfulness, and humanity of the keeper, as they had pronounced him a "capable and devoted keeper," as they had pronounced in their first report to the Legislature; and they consequently caused a secret examination at the prison, of the petty officers, with a view to the exposure of detecting abuses. propounding to each a series of questions, with an assurance that their answers should be considered confidential, and not be disclosed to their prejudice. These interviews were accompanied by a circular addressed to each officer, including the keeper, Mr. Lynds; which circular was dated the 1st of August, 1828. And as this secret investigation was the result of the Sing-Sing difficulties, (if not, as the keeper insists,

itself the cause of subsequent difficulties,) the committee deem it right to advert to and explain it briefly. They have therefore incorporated in this report, the circular, the standing interrogatories, the reply of A. K. Hoffman, the resident surgeon and physician, one of the most observing and intelligent officers attached to the prison, together with the refusal of Mr. Lynde to answer.

(No. 1.)

CIRCULAR TO THE OFFICERS OF THE PRISON.

MOUNT-PLEASANT PRISON, }
20th August, 1828. }

SIR—

It is deemed by the Commissioners to be within the compass of your duties as an officer of the prison, to take notice of any thing which may occur in or about the prison, which, in your opinion, may be prejudicial to the public interests, or to the good government of the prison; and to suggest any thing which you think would be an improvement: and that you communicate the same to the Commissioners in writing and in confidence.

To avoid misunderstandings or mistakes, the Commissioners have reduced to writing the substance of questions, which have been heretofore verbally put. They are intended as standing interrogatories to be from time to time answered by you. The answers not to be divulged, except to the Legislature or courts, should they require the same. And nothing stated in confidence is to be used by us to the prejudice of any person, but only as matter of inquiry, suggestion or advice.

(Signed)

Respectfully, &c.

GEORGE TIBBITS,
SAM'L M. H

STANDING INTERROGATORIES.

1. Have any and which of the officers, any emolument whatsoever, from the prison except their regular

2. Are there, in your opinion, too many or too few paid or free employed at the prison, and is any reduction in the compensation proper?

3. Do you know of any person who, by his education, deportment, or habits of life, or temper, is objectionable or guard? Is there any one who drinks too freely? known to be in liquor when on duty?

4. Are spirituous liquors allowed to be brought to the prison or for any one, except as medicine? and if so, under what conditions?

5. Do you know, believe, or ever heard of, any case of abuse or ill treatment in or about this prison, of any con-

are aware of any case of extreme or unnecessary punishment, it is your duty to state it in answer hereto, and when and by whom?

6. Is the nursing and hospital attendance sufficient, or as good as could reasonably be in the present state of the prison? And do you know of any particular case of suffering for the want thereof.

7. Are any materials procured for the use of the prison, applied to the private use of any officer or other person, or wasted, or not used with economy.

8. Have you any thing in particular to suggest for the benefit of the establishment?

(No. 2.)

August 26th, 1828.

GENTLEMEN—

My attention when at the prison having been almost exclusively confined to the sick, I am consequently badly prepared at present to give you such information as you appear to require: You having made it a part of my duty by yours of the 22d inst., to take notice of the general occurrences in and about the prison, I shall endeavor for the future to do so, and impart any thing which may occur prejudicial to the public interest or to the good government of the prison. In reply to your questions, I will briefly observe,

1st. That there is not in my opinion any person employed about the prison, who receives any emolument except his regular pay.

2d. I do not think that there are any more or less than the proper number of officers employed; there is a difference as to the rate of compensation, which I presume is known to the Commissioners, and which, in all probability, is justified by circumstances.

3d. There is one person employed as a keeper, who from habits, &c. I should consider as objectionable. I have never known any of the officers to be intoxicated when on duty, or in fact at any other time.

4th. I have not known of any spirituous liquors being brought to prison for the last two years, except as a medicine, and used exclusively for the sick.

I have never known or heard of any case of personal abuse, or of extreme or unnecessary punishment of any convict.

The nursing and hospital attention I know to be as good as could be expected in the present state of the prison. I have heard of no particular case of suffering for the want of nursing or hospital attention; nor do I believe such a case can occur without knowing it. The Commissioners will at once perceive that there is no inducement on my part to withhold from a sick convict any thing which might promote his recovery; but that I have no inducement to the contrary. Cases are constantly occurring in every other hospital, when full diet would be prejudicial to recovery; such cases form a source of complaint for those who are obliged to serve them without knowing the importance attached to it. The accommodations are not as good as they should be, and ex-

tremely inconvenient for the attendants, is known to the Commissioners; this is only to be remedied by a proper hospital apartment.

7th. I do not believe that any of the materials procured for the use of the prison, are applied to the private use of any officer; but on the contrary, have every reason to believe that the most rigid integrity is observed throughout the establishment.

8th. I would suggest to the Commissioners the propriety of furnishing the prison with a set of surgical instruments.

Respectfully yours,

A. K. HOFFMAN.

(No. 8.)

STATE PRISON, MOUNT-PLEASANT, }
23d August, 1828. }

GEORGE TIBBITS and SAMUEL M. HOPKINS, Esqrs.

Gentlemen—

In answer to your inquiry in regard to the management of this prison, I would state, that in as much as all appointments here are made by me, and all regulations, it would be natural to suppose that if any of the faults you inquire after, were known to exist, I should apply the remedy, if I possessed the capacity to discover them, or honesty enough to do my duty, therefore to answer them in the affirmative, would be to acknowledge I had neither, and to answer them in the negative, could do no good, for the very questions themselves show that you would not believe me, or you would not put them in the way you have.

As to the information you may obtain from the under keepers, it cannot amount to any thing more than their individual opinion; for if each man does his own duty, he has no opportunity of knowing how others do theirs, except in a few cases where two work together; for instance, a man that works in the quarry does not go to the stone shop twice in a year, where the men are at work, and those in the shops know nothing of what is done in the quarry.

I do think that the making of the subordinate officers of institution, spics upon the principal and upon each other, a calculated to create jealousy and hard feelings between the and create insubordination towards the principal; for if an anxious to keep his place, he will be extremely cautious he sends a man who may in a few days make representations him that he cannot meet nor rebut.

I am, respectfully,

Your ob't. servant.

ELAM LYND

Mr. Allen, the Commissioner who did not take part in this secret investigation, says in his testimony taken by the committee, "that he was not present at these examinations, did not approve of them, and thought them calculated to produce suspicions and disturb harmony among the under officers."

By referring to Doct. Hoffman's answer to the circular and interrogatories, it will be perceived that he apologises for his ignorance of the concerns of the prison and the conduct of the officers, by saying that he had been exclusively devoted to his own department, (the hospital,) and also that he now considered himself charged with new duties. He says: "Since you have made it a part of my duty, by yours of the 23d instant, to take notice of the general concerns in and about the prison, I shall endeavor in future to do so, and impart any thing which may occur prejudicial to the public interest or the good government of the prison."

Thus each petty officer, however humble his station or his qualifications for such duties, was advanced to the dignity of superintendent, and charged with the care of the public interest and the good government of the prison; a regulation which, in the opinion of the committee, could not fail to disturb the harmony and good order of the prison, by diverting the officers from their appropriate duties, and by imposing upon them the supervision and guardianship of those of all their fellows; and they also believe with Mr. Allen and Mr. Lynds, that such investigations are calculated to produce jealousies among the officers, and insubordination to the principal keeper, who would, as Mr. Lynds remarks, be careful how he ordered the petty officers, when he held his own office at their will and pleasure.

The committee are of opinion that this formal and secret examination is ill-judged and unprofitable; and that a free conversation with some of the most intelligent officers of this grade, would have afforded the information which the formal examination produced, and would have been free from all the objections made to its inquiry, its character, or of danger to the harmony and good fellowship of the officers, and would not have interfered with their duties by imposing upon them new and inappropriate ones.

The following extracts from the minutes of the Commissioners, show the result of this investigation.

"At a meeting, &c. Thursday 18th day of September, 1828.

*Present—GEORGE TIBBETS,
SAMUEL M. HOPKINS.*

The Commissioners had under examination [consideration] the confidential examinations of last month, and thereupon proposed certain written remarks, resulting therefrom to be made to Mr. Lynds, in the following words :

1st. There appears to have been too many cases where one keeper has punished the men of another, in the presence of the latter.

2nd. There is reason to believe that in some instances a keeper has punished prisoners for what they did in obedience to the orders of another keeper.

3d. It seems certain that in a few instances convicts have been employed by keepers to mend clothes for the latter—the amount is small. We also find that a keeper took a convict from his cell on Sunday to mend his shoes.

4th. It would seem that in one or more cases a convict, wounded by accident, has been left without dressing for his wounds until the regular visit of the doctor the next morning ; it is stated that one such convict died of his wounds ; we allude to the case of Cornelius.

5th. Keepers have mentioned that when newly employed they have not sufficient means to know their duty, and from such ignorance mistakes have originated.

6th. We deem it highly important that all the keepers should be men of good moral character, and their language and deportment before the prisoners decent and proper ; all profane language improper conversation is inconsistent with the character of

Friday, Sept. 19th, 1828.

The foregoing remarks were distinctly read over to Mr. Lynds and remarked upon by us, and his remarks also heard and read to.

It appears from Mr. Lynds' statement that several of the errors and omissions suggested, had come to his knowledge and were wrong remedied as soon as known, particularly as to the case of the convict who died of his wounds ; that the surgeon is and always is sent for when a wound is suspected to be dangerous or dangerous. Doct. Hoffman states that this was not considered to be

fracture until he came. Mr. Lynds states that the orders against using public property or having work done, are strict; that profane language is not allowed; that the keeper who took out the convict on Sunday, is not now here; that he knows none of bad character, and that the rule is strict against one keeper's punishing another's men.

From information and observation the Commissioners saw cause to believe that a reform had taken place in the matters complained of, or in many of them."

Thus it appears that this secret, confidential and elaborate investigation, exposed but few irregularities in the police of the prison, and that "a reformation had taken place in the matters complained of, or in many of them," before Mr. Lynds was advised by the Commissioners of their existence.

And here the committee think it right to remark, that this inquiry, strict and general as it was, disclosed no fraud or peculation on the part of Mr. Lynds; nor did it give rise to any suspicion of such crimes. It proved only that slight irregularities in the subordinate departments did exist, and it also proved that they were violations of prison regulations, and were promptly corrected when discovered by the keeper.

The committee will dismiss this part of the inquiry, after correcting a mistake in the printing of their former report, made in the Senate in relation to this subject. In describing in that report the documents submitted to them, the committee stated that "a part of consisted of the testimony of persons connected with the prior oath and in presence of the keeper, and that the remainder taken ex parte and without the knowledge of the keeper, an assurance that they should be considered confidential:" and presence was printed *favor*, greatly obscuring and perverting the meaning of the sentence; the committee intending to say a part of the documents in question, alluded to the secret examinations here fully detailed, and a part to the open examinations, which followed the next year, and which they will now take notice in detail also.

The examinations of 1829, which the committee now proceed to detail, relate to the conduct of the keeper, Mr. Lynds, from the

date of his contract with the Commissioners in 1825, to that of Mr. Hopkins' charges in 1830, and involve the question of his merits or demerits, his guilt or innocence, they will, in order to render their exposition more intelligible, consider the several charges of Mr. Hopkins against the keeper in the order in which they were made, taking for that purpose the reasons which he submitted to the board in support of his motion for the removal of Lynds, made and entered on the minutes of the board, 28th day of August, 1829.

These charges or reasons for removal are comprised under eleven heads or numbers, and one of these is again subdivided into eight heads.

The committee will restrict their extracts to the prominent reasons under each head, omitting comments and speculations.

I. "Because his order forbidding prisoners to complain of want of food was an outrage upon humanity. Every human being should have a right to complain, and especially every prisoner. This order, in connexion with distressing complaints, and testimony of short rations, lays alone a just foundation for removal."

This order was issued in the chapel on the Sabbath, and whether it was an outrage upon humanity, or an act of official duty, depends upon the motive which induced it. If it was issued to starving, stunted convicts—if the keeper wantonly or corruptly threw into their cup of misery this new and bitter ingredient, it is an outrage upon humanity, and calls for severe reprehension. It is a charge the keeper ought not to be convicted or acquitted on the testimony.

The committee find three witnesses, and three only the time when this order was issued.

Vinson Sherwood, an assistant keeper, examined 20th in answer to the question, when were the men first permitted to make complaints? Says, "thinks it was in the spring, when they were forbidden by Capt. Lynds on Sunday, dont know if it repeated."

Thomas Eager swears, 16th July, 1829, "he was assistant keeper, has often heard the prisoners complain, but not

the order of Mr. Lynds issued on Sunday, forbidding complaint on pain of punishment, *thinks this was nearly a year ago.*"

Hitchcock, testifying June 1829, says "he cannot tell with any certainty, but thinks the order was issued last fall."

Mr. Hopkins says the time when the order was published in the chapel, was not exactly ascertained. Mr. Lynds seems to fix it at the time of the confidential examination, and says, in substance, that in his opinion the clamour was produced by it; that he issued extra rations until he found they were not eaten, and then he published the order.

It will be recollected that the secret examination alluded to and described in this report, was had in the latter part of August 1828, and that the Commissioners met on the 19th September following, to consider and act upon it. And it is quite apparent from all the testimony, that the order in question was published and enforced by Lynds about this time, say July or August 1828.

It is remarkable that throughout this rigid scrutiny, and although questions were propounded to each officer, having for their object the detection and exposure of all abuses, yet not a word appears of stinted or bad rations, up to the 19th September, 1828, either from the witnesses or the Commissioners' minutes. All the testimony goes to show that the principal clamour for food, was in the months March and April following, being six months after the order not to complain to the principal keeper.

to whom all credit is given by Mr. Hopkins, and who in the prison, being deputy keeper, and particularly in the duty of hearing and redressing complaints of this kind, has an accurate knowledge of this subject, swears, on June 1829, as follows: "From about the first of September to the first of December [1828], they [the prisoners] seemed to be well fed, and many had rations left; during that time there were no complaints made; and except then, there has always been complaining."

We do not find any evidence that the order of Lynds was ever published, or any evidence showing the length of time in which it was enforced. It appears therefore very satisfactorily that this

order was published in the summer of 1828 ; that neither the order nor the privations suffered by the convicts were subjects of complaint or inquiry in the months of August and September, 1828, the time of the secret investigation and proceedings thereon, and that several months of the least complaint and the greatest abundance intervened this order and the season of the greatest complaint, being February, March and April, 1829.

It appears also that the regular channel for complaint and redress, was through the assistant keepers to the deputy keeper ; the practice of these assistants being to apply to the deputy in behalf of the men under their charge, except Hitchcock, who states that it was his practice to send his complaining men to the principal keeper ; and it does not appear that any impediment was interposed in this quarter, or that all complaints deemed reasonable were not reported to the deputy, and by him provided for.

The committee therefore do not deem this order an outrage upon humanity ; but from aught that appears, it was a salutary and proper regulation of the keeper to free himself from vexatious and groundless clamor, leaving open to the prisoners, if stinted, the regular channel and means for relief. And this seems to be the appropriate means of relief : the assistant is best acquainted with the habits and wants of the men under his particular care, can best judge of their necessities and detect their frauds, and the committee can imagine no other good reason why the principal keeper should not report complaints of convicts, except to enable him to test the intelligence, and humanity of his assistants.

It also appears to the committee, that this order properly coupled throughout by Mr. Hopkins with the complaints, bad provisions, presents to Marshall, &c. which subjects does it appear to them to have any connection, particularly as the order was issued in the summer of 1828, while the want occurred, if any, in February and March, 1829.

II. " Because I am entirely satisfied from the evidence known facts and observation, that while that order was in its rigor, the prisoners were actually kept on short rations, the following are the heads of my reasons :

1st. Though there is some conflict in the testimony, the facts and circumstances give a decided preponderance to the proof of ac-

2d. Order itself proof of such want.

6th. This fact rests also upon the *certain foundation of the testimony of Wilkie*, the deputy keeper. He states his opinion, "*that the complaints were to some extent reasonable in March and April.*" We have therefore a concurrence of three facts; actual want of food, bitter complaints of hunger made to subordinate officers, and a prohibition to bring these to the principal keeper.

7th. Resort has been had to an account of the actual total amount of provisions, and by no computation can the full amount be made out; as I understand Mr. Tibbits, on different calculations the deficiency will be from 2 to 5 or 6,000 rations, and without an allowance said to have been made for coarse beef."

8th. Under this head, bitter complaints, severe want, and prohibition to complain, are reiterated; allusion is made to the convicts eating clay to allay the severity of hunger.

He adds, that "these extraordinary facts induced an examination of the provision room, and the provisions were found to be made up principally of hogs' heads, and of shanks, skirts and necks of beef." And again: "We were pressed with the fact that mess pork was sent to make good the offal; but the contractor's account shows that six barrels of mess only were sent to 117 barrels, or perhaps it means to 291 barrels of offal provisions; a proportion which shows it to be a mere cover."

mony on this head is voluminous, and the committee read it with care; still they do not deem it necessary to report by copious extracts from testimony, which at best is unsatisfactory.

was complaint, is abundantly proved; but that there is no complaint, is by no means certain; for all the witnesses concur in saying that complaints, to some extent, always exist; and they agree in saying that groundless and vexatious complaints are often made, and that it is difficult and often impossible to distinguish between those that are well or ill founded, and that they are often made when the convicts cannot consume their rations, and have been detected in concealing portions of them, at times of greatest clamor.

The best and most prolific source of complaint for those who are querulous, and in judging of these complaints, the

keepers must rely on the character of their men, a careful watch upon their conduct, and their general appearance. Hitchcock, an assistant-keeper, was in the confidence of the Commissioners, and kept up a correspondence with Messrs. Hopkins & Tibbits, in the years 1828 and 29; this keeper has been charged with the duty of observing and reporting the misconduct of his fellows, and when he is made a witness to support his own charges, his zeal has exposed his testimony to great suspicion. He quotes largely from the prisoners, who represent themselves as famished, "almost starved to death"; they showed him their rations of meat, being not more than a couple of ounces, and bad in quality; one showed him offensive and impure substances mixed with his food, which rendered it totally unfit to eat; he heard accounts of men eating clay, and this connected with short rations. In one of his letters to Mr. Tibbits he gives an account of a prisoner having nearly broke through his wall, who alleged hunger as an apology.

It is incredible that the convicts should be driven to the expedient of eating clay to appease their hunger, and still more so that their stinted allowance should be rendered unfit for use; thus defeating the fraudulent intentions of the contractor and his coadjutors if they entertained such.

The committee quote with more confidence from the testimony of A. K. Hoffman, the resident physician and surgeon of the prison - gentleman of intelligence and character, with good observation. Hoffman examined June 19th, 1829, and thinks the rations are good in quality and sufficient. He thinks for a time last summer the potatoes were bad, or believe the rations have been deficient in quantity. He thinks, within a month past three complaints, from the appearance of these men that there could be no doubt, had no symptoms of debility; says the prisoners were eight sick, exclusive of four who joined the prison at New York; thinks the men work longer than labouring men do."

The same witness examined by the committee says, "he was physician to the prison from November 1829; he passed through the kitchen daily to the hall where served the rations made up for the convicts, by the direction of the Commissioners; he noticed the rations in the fall,

1828-9, and that generally, his examinations extended to the spring of the year, and to the rations contained in the kids, and is of opinion there was the usual quantity, and as much as the men ought to have."

It appears from this witness, that a remarkable degree of health prevailed at this time, and that too after a winter of famine, according to others, there being but eight sick out of a company of 500 men, laboring more than the usual number of hours; it is true their rations were at this period increased by the daily number of 10 or 15, (about 30 extra rations being the number issued at this time) still it appears by another witness (Wiltsie) that the health of the convicts was good throughout the winter.

Mr. Wiltsie, at that time deputy, now principal keeper, who appears to have been specially charged with this subject, says, June 20th, 1829, "I think the rations are now good and sufficient; have heard no complaint for a week or ten days; the complaints are generally made to me, either by convicts or keepers, and it is so expected to be; during the last of February and first of March I was away; on my return about the middle of March there was great complaints among the convicts, and the keepers talked a great deal about the rations. *The complaints were, I think, to some extent, reasonable in March and April*, but few came to my knowledge but what were provided for in some way. I attributed the unusual com-

plaints, the men working out in the cold and the feed-
d peas instead of potatoes; the beans were a kind of
their appetites might have been sharper." He conti-
to have said, that formerly extra rations were set
n big eaters, after that a new kitchen arrangement
par, which produced great complaints from the big
is since been remedied, and they now have their ex-
n. I am satisfied that at one time more rations would
n good, say about March and April, though the men
lthy."

ony, taken by the committee in August last, he ex-
going by saying "that the new kitchen arrangement
d the large eaters of their extra allowance, took place
or spring of 1829, say the early part of the spring,
d complaints from these prisoners, loud and clamorous;
d complaints about the quality of food. There are

always reasonable complaints, which are remedied as soon as ascertained. After his deposition was taken in 1829, he made particular examinations respecting those who had made the loudest complaints, and he now recollects that those who complained the loudest did not eat their rations. He examined into this subject of rations very particularly and narrowly. P. Soulard had complained, and witness tried him, and found he had left a part of his rations in his room. There were at least six that complained, who did not eat their rations, but left their food in their rooms."

From all the evidence, the committee believe there was a short period when more food would have been serviceable to the out-door prisoners who were exposed to the cold weather, and also to the large eaters who were for a time deprived of their extra food; and they are led to this conclusion in regard to out-door prisoners, principally by the fact that this portion of the convicts complained most, which cannot be accounted for otherwise than by the well known fact that laborers exposed to severe and cold weather require more food than in summer, or in situations less exposed. Yet they do not, with Mr. Hopkins, find cause to censure Mr. Lynds, or any other officer of the prison; and they believe there was no want or complaint that has not been satisfactorily accounted by such exposure, by the temporary interruption of extra rations to the large eaters, by change of diet, by short absence of the and by groundless and false clamor; explanations mittee regret to perceive have been wholly overlooked.

It does appear to the committee that much pains particularly by Wiltsie, acting under the direction of Lynds, to discriminate between feigned and real wants, and to administer without wasting public provisions on the former.

In relation to the six barrels mess pork sent, as Mr. Lynds says, as a mere cover for 117 barrels, or perhaps 291 barrels of meat, the committee remark, that an account was taken of the contractor of the meat furnished at the prison, from November 1828, to 16th July 1829, for the purpose of testing the account of rations charged to and paid for by the contractor, being the only part of the ration complained of, has been the subject of remark and computation. 593 barrels of meat were furnished by the contractor for the above period, viz :

166 prime beef ;
 102 prime pork ;
 6 mess do. ;

274 bbls. inspected provisions.

202 clear shank and cheek beef ;
 81 necks, &c. do. ;
 36 pork heads and shoulders ;
 — 319 bbls. not inspected.

593 bbls.

The two last parcels, viz. the neck beef, and the pork heads and shoulders, are the 117 bbls. offal alluded to by Mr. Hopkins ; the three last, including the 202 bbls. clear shank and cheek, constitute the 319 bbls., for which, according to Mr. Hopkins, the 6 bbls. mess pork were a cover, a mere pretence to cloak these 319 bbls. "offal" provisions, in his language. The facts are, that the 202 bbls. clear meat, are proved to be better than prime beef, and the committee have no doubt they were better ; they will be described hereafter. The 81 bbls. were necks, &c., with bone in them, and the contractor gave directions to make suitable allowance for the extra bone, and accordingly 6 bbls. were issued for 5. This is the only part of the meat deserving the name of "offal," or rough ; unless it be the 36 bbls.

lders ; these were sent by way of experiment, with a ke from them full rations, and to report to him (the ether it was acceptable. But Mr. Lynds objected to vision so soon as it came to his knowledge ; not that or had ration otherwise than that it was too lean and no salt, and would induce the prisoners to drink too their health. The 6 bbls. of mess pork were sent hese 36 bbls. or what remained of them when Mr. rmed of it, and no more of this kind of meat was re- bbls. of mess pork were not therefore a cover for the ind beef, or the 319 bbls., according to Mr. Hopkins.

o the deficiency of the meat ration, as tested by and Hopkins, the committee state, that they have by Mr. Tibbits, with an account of the rations paid in each month from 1st November, 1828, to 16th l,..... 133,570
 me time, 1,450

Rations,.... 135,020

The 593 bbls. of meat above described, have b
 tions by him,

Add 18 bbls. not proved to his satisfaction,...

Deduct $2\frac{1}{2}$ per cent. on the whole, for waste in dis

Total amount issued,

Being 1,911 rations paid for by the state more

Mr. Hopkins has at the request of Mr. Tibbitts
 tended this calculation and produced the followi
 ing the $2\frac{1}{2}$ per cent. on all meat, as Mr. Tibbitts b
 &c., and rejecting the 18 bbls., Mr. Hopkins find
 the state more than have been furnished by the c
 if the 18 bbls. are allowed, then.....

If the $2\frac{1}{2}$ per cent is not deducted,

To produce these results Mr. Hopkins has called
 meat above described, refuse or offal, requiring 6

The committee have reviewed these estimates,
 and produced the following result :

Whole quantity of meat reduced to rations, acco

Mr. Tibbitts,

Add 18 bbls. satisfactorily proved,

Add mistake in fresh beef overcharged by Mr. T.

Add under estimate by Mr. Wilson, contractor, of

tents of 174 bbls. clear meat, of $7\frac{1}{2}$ lbs. each,

Deduct on 81 bbls. necks, &c. issued 6 for 5, $13\frac{1}{2}$

No. of rations issued, according to prison books,

Extra rations,

Over-issued by contra

Thus it appears by this computation, that the cont
 ed 66 rations more than he has received pay for,
received pay for 16,053 rations more than he has

The contract of 1825-6, is said to contain the f

[S. No. 60.]

3

"The rations to be delivered at the prison daily or otherwise, at the discretion of the agent; or they may be delivered in parcels for one, and not exceeding two months, *with an allowance not exceeding 2½ per cent* in quantity, to make good the loss in the daily distribution."

The committee understand by this clause, that the contractor had the right of electing to issue his rations daily, and be paid for all he issued; or he might furnish them in quantities not exceeding two months' supply, provided he would allow on such quantities 2½ per cent. Mr. Allen concurs in opinion with the committee. Mr. Wilson chose the first, and the committee have rejected the 2½ per cent allowed by Messrs. Hopkins and Tibbits.

When the Commissioners required of the contractor an account of the provisions furnished for the period above specified, he was obliged to *estimate* 174 barrels clear meat; and it now appears that he underrated the quantity contained in these barrels by 7½ lbs. each. This error has been detected by an exhibition by the contractor of the original weights of two lots of same kind of beef furnished the ~~present contractor~~, one 43 barrels, the other 57, packed in same; found they exceed the former estimate, which is, by the above amount of 7½ lbs. each. Hence which the committee have added to the contractor's; there is ample proof that 81 barrels beef only is, and that these only required an allowance.

ons, together with the proof hereafter to be presented to the clear beef, will enable the Senate to judge the various computations, producing results so on each other.

he case of the assistant keeper and overseer of rations, which has been the subject of much examination, and confirmation of the facts regarding scarcity. Marshall received considerable presents from the his time; that Mr. Lynds knew of some of the and sold some himself."

Extract from the minutes of the Board, June 19th,

"It appears also from the testimony of Marshall himself, that the contractor Wilson had been in the practice of making him presents. He concedes that Wilson made him a present of a half barrel of pig pork, and again one, and afterwards of another barrel, and a half barrel of flour; last New-Year's, a present to his wife of 25 dollars in money."

"The Commissioners consider the giving of presents by the contractor to any of the officers of the prison, and the acceptance of them, particularly by the superintendent of the cooking department, utterly irreconcilable with the duties of both the giver and receiver."

"They accordingly direct the agent to dismiss Mr. Marshall from the superintendence of the cooking department, and to supply his place with some trust-worthy person."

Again, in Mr. Hopkins' remarks to the board, 16th July, 1829, he says, "Mr. Lynds stated to us verbally, that he knew of the provisions presented to Marshall."

And again, "It is plain and obvious that Marshall, under the daily habit of receiving presents from Wilson, could not be a rigorous watch over his conduct."

When these documents were presented to the Hopkins, the committee were forcibly struck with this keeper. The guilty author of so much misery public accused, convicted and condemned; deprived and doomed to ignominy, and perhaps to feel him had inflicted on so many helpless convicts; a sentence of the committee, his crimes deserved: excuse nothing to palliate his offence; he had re-starved the convicts. And such is the character of the documents have placed this officer before the public for months; documents which have been widely circulated in legislative journals, newspapers, and "prison discipline reports."

What then must have been the surprise of the threshold of their labours, to find this officer still performing the duties of a responsible station in the prison, under the Commissioners; a station requiring, as they

character and correct deportment, to find the Commissioners, at a full board, on the 16th day of July, 1829, pronouncing him innocent of all crime, and guilty only of indiscretion; and to find too, that Marshall had never received either a bribe or a present, but all he had received was a fair reward for honest, faithful services.

Extract from Minutes—July 16th, 1829.

*Present—GEORGE TIERRE,
S. M. HOPKINS,
STEPHEN ALLEN.*

"The Commissioners took the examination of Thomas Eager, an under keeper, in regard to Marshall, rations, &c.," and after alluding to their order of the 19th June, discharging him from the cooking department, and after expressing their disapprobation of what they call presents, add—"Have, after hearing further evidence upon the subject, reason to believe that, in the case of Marshall, it may be considered rather as evidence of want of caution than of morality, rather an indiscretion than fraud, and therefore leave Mr. Marshall exonerated from intentional moral turpitude, so far as their knowledge extends."

The committee also annex to their report the copy of a letter from " " " " 19th June, 1829, addressed to Col. A. Ward, Sing-
a memorial from the inhabitants of that village in
all, which memorial awards him a high character
real worth.

FROM THE HON. STEPHEN ALLEN, TO COL. A.
WARD, SING-SING.

New-York, June 30, 1829.

Your note of 29th inst. enclosing a petition in fa-
l, was duly received, and will be transmitted to
mediately. We will endeavour to have a meeting
early a day as practicable. The order for Mr. M's
by Messrs. Tibbits & Hopkins, after I had left the
approved the measure; not because I believed Mr.
ged the prisoners, in order that the contractor
, neither were there any charges brought against
ut because the practice was unauthorised, had a
re cause for unfavourable surmises, to him as well
, and having been publicly spoken of by seve-
the only way we could show our decided disap-
and prevent the procedure from becoming a

precedent for others not so honest and trustworthy as Mr. Marshall may be. We will, however, endeavour to do him ample justice, at least so far as the act of removing him from the station of Steward may affect his character. In the mean time, it is necessary he should comply with the order.

Your ob't. serv't.

(Signed.)

STEPHEN ALLEN.

The facts in relation to Marshall are, that in the fall of 1827, the contractor found his interest at the prison suffering for want of some trusty man to take an account of his provisions, and keep him advised of the state of supplies; preserve and return his empty casks, barrels, &c.; to see that provisions were issued in the order of time in which they were furnished, and not suffered to spoil by neglect and age; to receive his supplies of potatoes, meal, &c., from the country. He stated his wants to Mr. Lynds, who recommended Mr. Marshall as trustworthy and faithful; the contractor applied to him in presence of Lynds and other keepers, in the most public manner. Marshall agreed to undertake the duty, with an understanding distinctly expressed by both parties, that compensation would be made and was expected, and but for what appears to have been a false delivery on the part of Mr. Marshall, the terms would have been settled. When Wilson invited a proposition, he replied that "he had a family and W. must not let them starve."

The contractor paid him about 60 dollars for the period of one year and nine months, after Mr. Garrow the contractor at Auburn, what sum in the same station, for similar services at that time to govern himself in this matter by Garrow's

The committee perceive nothing to censure except the neglect to fix the rate of compensation that a man standing in the relation which Marshall was to the contractor, and the convicts, might not, as he ought not, rely on the liberality of the contractor for his compensation.

This preliminary settled, the committee see no objection to his performing this service. The proof of the facts by the parties is fortified by the oath of each, and the testimony of the interested witnesses. Marshall's character is known, Wilson is favourable known to the committee, and Lynds to the public.

It is remarkable that Marshall had been in the receipt of what the Commissioners call "*presents*," for 21 months previous to June 1829, and that during and near the close of the first year the secret investigation took place, which disclosed neither fraud nor hunger; nor were they suspected to exist till near the close of these twenty-one months.

In relation to the presents from the contractor to Lynds the keeper, the committee have only to say, they were small in amount;—they believe two or three dozen porter, and one or two demijohns of wine, and are evidently tokens of civility to Mr. Lynds' family for their hospitality to the contractor, or more properly a payment for board, made in a delicate manner, and ought never to have appeared in the investigation.

After this exposition, it will be perceived how unfortunate Mr. Hopkins is in his comments upon this head of his charges.

He says, "It shews a very questionable state of things when both the principal keeper and the overseer of the rations receive valuable presents from a contractor, who is not in easy circumstances; when the presents are connected in time with urgent and distressing want, the want with loud complaints, and the complaints with a petition by the principal, to bring them to his ears upon pain of

ring this time of severe complaint, an account is state of 12 or 1400 rations."

w nothing in this to induce suspicion or call for m, nor would they have done so but for a letter Hopkins, in which he institutes a comparison between the number of rations from November, 1829, and from this results, in his opinion, further or double fraud, viz.

and payment for more rations than there were

extra rations not issued; and also a discrepancy testimony of Lynds and Wiltzie.

ave therefore examined this subject critically. ed by the contractor in the spring of 1829, for , said to have been issued during the winter overember, to 31st May; this being the season of

clamour, and the time of excitement and doubt, the Commissioners refused to allow them until the result of their inquiries should justify it.

Mr. Lynds and Mr. Wilson swear that estimates were sometimes made in the early part of the month, of the probable number of convicts to be fed during the month, and a certificate given to the contractor ante dated, that is, dated at the end of the month, when the payment would be due from the State through Mr. Allen; these certificates were pledged by Wilson with his friend for money, and when at maturity, presented, without correction, to Mr. Allen and paid; leaving not only the extra rations of the month unpaid for, but also the number actually due and issued to convicts, not included in the estimate; and as Mr. Lynds swears that over estimates were never made, there must always have been some of this latter description, for it would be incredible that an estimate could be made of the number of convicts for a month in advance, that should exactly correspond with the true number, when that was varying almost daily. Both witnesses say that the 1,450 rations claimed for these 7 months, and called *extra* rations, are made up partly of extra rations issued in those months, and not claimed 'till the close of them, and partly of under estimates, as when the true number, together with extras were issued, while the estimated and short for. Mr. Hopkins is not satisfied with this; he believes, contrary to Lynds's testimony, that it was made. This last circumstance is only impugning the credibility and veracity of the witness, provided it was corrected in the final adjustment.

It appears by Wiltsie, that the practice of giving to the contractor the advantage of the fraction is, for 509 convicts, he had credit for feeding

Abstract of Men and Rations, from 1 Nov.

Date.	Actual No.	Men.	Fractions of fives.
1828, Nov.	15,295	....	60
Dec.	15,724	....	31
1829, Jan.	15,814	....	86
Feb.	14,327	....	81
March, ...	15,765	....	45
April,	15,259	....	96
May,	15,747	....	60

Carried forward,

	<i>Rations due.</i>	<i>Actual drafts.</i>
Brought forward;....	108,340	108,730
		108,340
Extra rations drawn,		390
Extra rations charged for same period,		1,450
Total amount of extra rations issued and paid for during		-----
the above period,		1,840

Abstract of Men and Rations, from 1 June to 16 July 1829.

	<i>Men.</i>	<i>Fractions.</i>	<i>Total.</i>	<i>Drafts.</i>
June,	15,287	60	15,347	16,200
July 16,....	8,328	32	8,360	8,640
	<u>23,615</u>	<u>92</u>	<u>23,707</u>	<u>24,840</u>
				23,707

Extra rations issued, 1,133

To ascertain the actual number of men, the committee have examined the prison book for each day of the nine months, and thus, at the expense of considerable labor, found the aggregate of each month; and although each month produces a result varying a little from Mr. Hopkins in the number of men, making in some months more, in the aggregate of the nine months does not vary materially.

find no reason to doubt the truth and accuracy of relation to the estimated monthly rations; and they estimates for any one of the first five months except of prisoners, including the fractions allowed the

the second month, (December,) 55 rations were the exact number due the men for that month; but 55 less than the number due them was drawn so that both months together give a number of exactly equal to the number of men, viz. 31,110, but months no extra rations.

the months, January and February, the drafts were over the number of men by 90 and 78, together 168 rations. In March, the drafts and men agree, both being in agreement of rations and men, when it is admitted that in the winter season he always required

his estimates a month in advance, he explains by saying that he sometimes took the estimate from the friend who had made him the monthly advance, and carried it to the prison when at maturity, and had it corrected by the number of men, before it was presented to Mr. Allen; and this must have happened at the end of the months of December and March, otherwise the coincidence of this exact agreement in men and rations would be unaccountable.

The committee are of opinion that the 1450 rations accrued in these five months from November to March inclusive, and were made up, as Wilson and Lynds state, partly of extra rations, and partly of rations issued beyond the monthly estimates. Thus, 168 rations were due the contractor for the months of January and February, and 1282 were extra rations issued in the five months, making together the 1450 rations which had arisen during this winter, and payment for which was claimed and refused in the spring. This would give 256 rations extra per month among 500 men, or $8\frac{1}{4}$ rations per day; the smallest number that the committee can believe were issued this winter, if extra rations were issued at all, which they have no reason to doubt.

The committee have assigned the 1282 extra rations to these five months, because, after the month of March, a different practice prevailed; from that time, beginning with April, and for the next four months, the drafts always exceeded the number of men:

In April, by	245
May,	313
June and half July,	1133

As the extra issues became more considerable, the contractors did not allow them to accumulate as in the winter, but had them included in the monthly drafts; and it is quite apparent, that from the first of April, extra rations were included in estimates when estimates were made.

It appears from the testimony, that few extra rations were issued in the winter 1828-9; but that they were increased in the spring and summer of 1829, to about 30 per day. The result of the examination corroborates this testimony.

V. "Because the inconsistency and untruth of the preceding facts, resorted to in excuse, give the strongest ground to apprehend that the faith," &c.

Whether this reason is well founded, will necessarily appear in the discussion of the other heads.

VI. "Because it was a flagrant breach of duty in Mr. Lynde to receive offal beef from year to year, when the contract was for prime; the difference of cost was a fraud upon the state."

After explaining the 81 bbls. neck beef, which was issued 6 for 5, there remains the shin beef; and this is the kind that was received from year to year at both prisons, and is called "offal," by Messrs. Tibbits & Hopkins. It is the clear beef from the leg, the bone being taken out, and all the witnesses concur in opinion that this is equal or superior to prime beef. The Commissioners have included this kind of meat in their public notice to contractors, at least once. Although this beef is composed of a firmer muscle, and is therefore less grateful to the palate, yet it must, when thoroughly cooked, afford more aliment to a labourer than an equal quantity of prime beef containing a due proportion of bone, and the keeper has acted right in receiving it in lieu of prime beef, if he was authorised to exercise discretion in this matter.

The Commissioners in their report to the legislature in 1825, the use of such meat when they say, "that a state should consist of the cheapest possible articles of heal-

at such meat would be received, would have proposition and lower bids for the contract, then the giving such notice. The committee do not think Mr. that it was unsafe to receive it because it could valid one, so long as the keeper was to decide on sions.

re many matters in the conduct of Mr. Lynde appeared of late, and which show him to be a different temper and conduct from what he was, and ison.

numberable instances of cruelty to prisoners. He r indiscriminate punishment, which might there- sent. His conduct to the Rev. Mr. Barrett, was and is the second instance of bad temper shown to chaplain."

As to altered temper, the charge has not been proved before the committee.

As to acts of cruelty, the prominent, if not the only charge, relates to the convict with a broken leg, and this is explained by the surgeon in a manner to exonerate not only Mr. Lynds, but the other officers from blame:—the leg was broken in the afternoon, and contrary to orders and the practice of the prison, was not reported till next morning, the time of the surgeon's regular visit. It was such a fracture as might have deceived an unpractised keeper, and have passed for a contusion.

Orders to punish, relate to the clamour for food, slamming of kids in the cells, and cries of "more mush." Mr. Lynds believing these cries and noises were mutinous, gave orders to the keepers to ascertain their authors, and said if he could get within a dozen he would punish the whole but he would get the right.

The committee have no hesitation in saying that such a threat was improper, and its execution would have been still more so.—This conduct must have been mutinous, or the effect of despair, produced by a degree of suffering which deprived the men of their judgment, and produced frenzy; for they must have had much of the discipline of the prison to have had such means; and as there is no proof to justify the existence of a degree of want, the committee are obliged to Mr. Lynds' opinion, that their conduct was mutinous and oppressive, but not in the indiscriminate manner threatened.

There is much testimony taken by the Committee, the chaplain, and Lynds, but it does not afford the means of judging which was in fault, or the situation: all they have been able to learn from this testimony is that Barrett and Lynds had an altercation in the prison; that Lynds appeared angry and that Barrett appeared to threaten to strike, and Barrett appeared immediately after Lynds discharged him.

Mr. Allen thinks both were to blame, but calls the blame on the part of Lynds, and probably from the relation Barrett stood to the "Boston prison discipline society."

VIII. "Because I am dissatisfied with some of the pecuniary transactions of Mr. Lynds. His own salary had been fixed at \$2,000, and when we were committed to go on with the new prison and could not dispense with his services, he suddenly informed us that he expected house rent and wood in addition."

Mr. Lynds states that he expected house rent and wood as a matter of course, these having been allowed him at Auburn.

Mr. Allen thinks Mr. Lynds might have expected house rent and wood as he had been allowed them at Auburn, and particularly as there was a house on the prison farm belonging to the State. The committee believe such was his expectation, and they find additional evidence to support this opinion in the fact, that when the Legislature reduced his salary by a sum about equal to house rent and fuel, he resigned the situation, and that too, after the appointment of new inspectors, whose entire confidence he possessed; and after Hitchcock and Barrett had left the prison, and harmony had returned. They find too in his resignation additional evidence of his innocence of the small charges of peculation; for if he had looked to this source for any portion of his emoluments, he left the prison at a time when circumstances seemed most to favor his fraudulent views, and to invite his longer stay.

Mr. Hopkins continues under this head, "Several instances of small peculations have been charged upon Mr. Lynds."

In relation to these charges and other mal-practices, the committee remark, that however small the amount of peculation may be, they consider the charge one of an aggravated character: they do not however propose to examine each in detail, believing they can inform the Senate as they have themselves become satisfied that all of them are entirely without foundation, affording a reasonable ground for the opinion that all are equally so.

It is also recollected that the inquisitorial system of inspection was introduced by a major part of the Commissioners, Messrs. Tibbits and Lynds, as early as 1828, whether right or wrong, was not approved by Mr. Lynds, and had to encounter his decided opposition. To put the system into effect the Commissioners were obliged to secure the confidence and interest certain officers of the prison, and by them it was made to collect and report all improprieties and

mal-practices ; and to such officers they were obliged to promise the protection of their authority and influence : for it seems to have been foreseen quite early, that they might require such countenance and support. Hitchcock was one of these confidential agents, and from the minuteness of his observations and research, extending back to the commencement of this establishment in 1825, he appears to have been an industrious one. As this witness is produced to sustain his own charges, the committee have before remarked, that his testimony was received with caution.

Although the joint testimony of Joy and Hitchcock, is little else than a tissue of contradiction, crimination and recrimination, yet it is apparent enough that Hitchcock was hostile to Lynds, and quite apparent that he indulged some hope of being charged at a future period with his duties, in the event of his removal. It is equally apparent, (contradictory as the evidence of these two witnesses is,) that he indulged some visions of future wealth ; that \$30,000 were to be made by prison operations, *honestly* Hitchcock says, but it *was to be made* at any rate Joy says. And when Joy said he should be glad to make the money if it could be done *honestly*, Hitchcock replied, "what do we care if it comes out of the State." Hitchcock denies this conversation.

This is the witness who has furnished most of the charges, and who has, notwithstanding his ambitious views and brilliant prospects, suffered himself, according to his own testimony, to be made a *straw* instrument in the hands of Lynds, to abuse his trust. He performed a journey to New-York, and spent five days in the humble office of procuring a wet nurse for Mrs. Lynds, except half an hour, five days, which was devoted to the service of the State.

The following are among the peculations and mal-practices committed upon the keeper :

Taking for family use oil from the public stores.

Making in the public shop for his kitchen, shovel and tongs.

Rough stone sold and not fully accounted for.

Safe for house.

Repairs made to dwelling by convicts, and escape of one.

Employing prisoners in his family without crediting them to the State.

Journey to Auburn on his private business, charged the State.

Wet nurse.

Alleging that he received pay at both prisons for the month of April 1825.

Using public coals in his family.

In relation to oil, Mr. Lynds swears that his family upon one occasion sent to the prison for a small quantity, under the belief that it would be charged; and that he stopped it as soon as it came to his knowledge.

Shovel and tongs for the kitchen appear to have been made in Hitchcock's shop, at the request of his family, and without his knowledge.

The memorandum of monies received for rough stone, was destroyed by fire with the office, and another made from recollection. Mr. Tibbits expresses his satisfaction on this matter, but in terms rather equivocal; if not quite satisfied, neither does he complain.

The safe, Lynds says, was made by the prisoners; is a sort of fixture belonging to the house, and cost, or is worth about seventy-

the dwelling, by convicts, which belonged to the right and proper, especially as that repair was when Duboise escaped in consequence of being so it appears to have been the usual precaution taken to prevent escape, as the company were under the

black boy, lame, whose services were of small value in his family a day or two in each week, and before his time expired, every day.

one, formerly in the Auburn prison, and there employed as a domestic, joined his family again at Sing Sing, a few days before his time expired, and is still (in August last.)

Lewis, the keeper at Auburn, swears that it has been necessary for the keepers to employ prisoners as family

Lynds swears that the journey to Auburn, winter of 1825, was occasioned by prison business, which he describes; that he transacted no other business for himself, than to receive a payment in money which was due him at that place, to lend it, and take a note therefor.

As to wet nurse, Lynds first swears that he knows nothing of Hitchcock being employed on such an errand, and does not believe it; but after consulting his family, says he is informed by them that Mrs. Lynds wrote by Hitchcock to a female friend in New-York, who procured and sent her the nurse. Mr. Lynds says this must have been upon one of two occasions, 1825, when Hitchcock was sent to New-York to acquire the method of using anthracite coal in the forges, and failing the first time, was sent again, and succeeded greatly to the advantage of the prison.

The committee understand Mr. Hopkins to complain, not that Mr. Lynds received pay at both prisons in April 1825, but that he had *said* he did, and was therefore guilty of a violation of truth. Lynds denies this assertion, but insists that he said, if he had received double pay, the Comptroller's books would show it. As the salary was paid but once, it seems hardly to have merited Hopkins's charges.

In relation to coal, Mr. Lynds admits that he used coal in the winter of 1828, $\frac{3}{4}$, 1, or $1\frac{1}{4}$ tons; alleging that all the fire-places were fitted with grates, except that coal was not to be had in the place. The coal was purchased publicly, a quarter of a ton at a time. And further, when the river opened, he made a purchase of coal for the prison, which was purchased at the same time, and paid for with his own money, equal to that borrowed.

Mr. Tibbits says he has examined the books of the prison in New-York, and can find no entry which affords evidence that this coal has been replaced.

The committee have also examined the books of the prison, and find two entries, either of which might account for the coal. They find February 27th, 1828, Lynds ordered coal and paid the money for and shipped them by Capt. Lynch, for Sing-Sing. This parcel may have been used for the prison, but if not, and these were used for his family,

think highly probable, they being destitute of coal, then they find another entry of coal charged to Mr. Lynds by the company,

1828, April 23, Coal,.....	\$27
“ “ 29, “	108

Credit.

1828, Nov. 28, Cash,.....	\$27
“ Dec. 24, Bills,.....	108

Bills is understood to mean drafts on Mr. Allen; the usual method of paying for all supplies for the prison.

The first parcel, therefore, costing 27 dollars, were paid for by Mr. Lynds, and the committee see no reason to doubt that the borrowed coal were refunded from this parcel bought in April, if not from the first bought in February.

Mr. Tibbits objects to the transaction, even if the coal were repaid, that it was a violation of the order, to have no dealings in prison property, a wholesome order no doubt, but one which the committee think may, and ought to be dispensed with upon such an emergency. The committee find nothing to censure in this, and a similar , except the omission to enter the whole in the an entry would always explain itself and pre- or this omission, Mr. Lynds' apology is, that ction irregular, and not intending it should recur, h an entry to reproach him, with a violation of ion to the wood, the fairness and integrity of lished beyond a doubt, and under circumstances ite a strong presumption in favor of the fairness on, if the circumstances had been less favorable

e heads present no important or definite charge, s upon the charges under former heads, except lissmissal of Hitchcock, in contempt of the autho- the Commissioners, who had recorded on their nued confidence in this assistant keeper, with a . against removal by Lynds.

Mr. Allen thinks that Lynds and Hitchcock could ether after the difficulties had arisen between Hitchcock to be retained, but could not expect

that Lynds would have retained him under the circumstances of the case.

Mr. Hopkins says in conclusion, "Each one of the eleven heads are sufficient to justify a removal; but not that each one separately and alone would absolutely call for it, collectively they do, in my opinion, imperatively call for it."

The committee trust they have furnished the Senate with ample means of judging whether each or all the charges under these heads would have justified or have called for the removal of Mr. Lynds.

For the time the committee have devoted to this subject, their apology must be found in the importance which they attach to it.

They found the reputation of three of their fellow-citizens in their hands; two of them were in public stations, and one had acquired a high reputation for himself, and that too in a manner so intimately connected with our penitentiary system as to make his reputation in some measure public property.

The success of our favorite system of prison discipline and economy, to which the Commissioners themselves had greatly contributed, Mr. Hopkins pronounced to be in danger. He says, "the whole moral aspect of the prison government is now unhappy, and when publicly known, will be disgraceful to the State."

The imputations thrown upon these citizens and this institution were from a distinguished individual, to whom important public duties had been committed, and have been circulated abroad with a velocity that outruns common justice; even a portion of the documents which ought yet to be considered in the possession of your committee, have long since found their way into the "Report of the Prison Discipline Society."

It is the opinion of your committee, that these three gentlemen (Messrs. Lynds, Marshall and Wilson,) stand acquitted of dishonor; and that Mr. Lynds has in no way impaired his earned fame. He may have lacked discretion in dismissing his cock in defiance of the wishes and authority of the Commissioners, provided he wished to retain his own situation; still the Commissioners cannot withhold their commendation of the independence which dictated this measure, believing as they do, that the prison system

could not go forward with advantage to the State, or satisfaction to himself, with such an associate.

As regards the moral aspect of the prison, they observed for themselves, and they found much to admire and approve, and little or nothing to censure. They found the whole moral aspect of the prison government most happy; and in their opinion, the more publicly its condition is known, the more creditable will it be to the State.

IN SENATE,

March 21, 1831.

REPORT

Of the committee on the division of counties and towns, on the bill to divide the town of Hinsdale in the county of Cattaraugus.

Mr. Beardsley, from the committee on the division of counties and towns, to which was referred an engrossed bill from the Assembly, for dividing the town of Hinsdale in the county of Cattaraugus,

REPORTED AS FOLLOWS :

That the present town comprises a territory of about 9 miles north and south, and west.

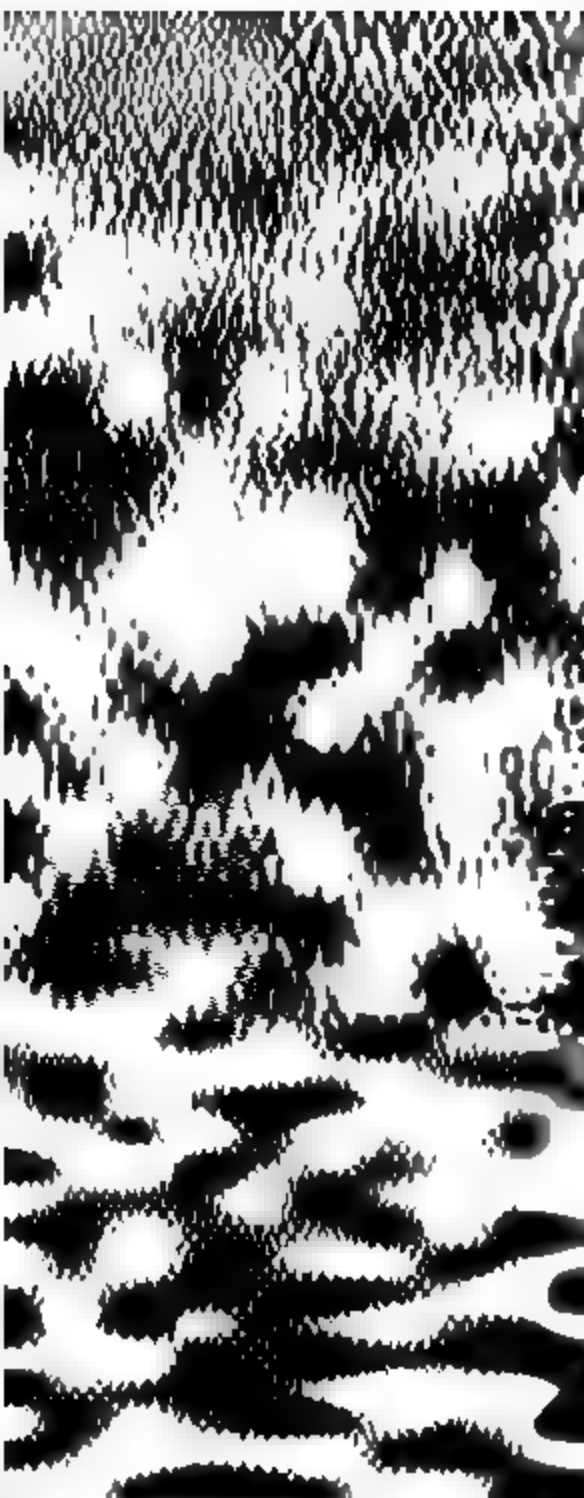
The petitioners for a division allege that there are 160 taxable inhabitants; those remonstrating a

The petitions and remonstrance contain 160 signatures. Sixty have signed a petition for dividing the town by a west line through the centre, which is in accordance with the advice of division given at town-meeting. Twenty have signed a petition in favor of a different division, but only one and seventy-one remonstrate against any division.

The remonstrants state that the town is now assessed at the rate of one dollar and sixty cents on each house. They object to the contemplated division of the town, and state that if the town is to be divided, it should be divided into two equal parts. The application for this particular division is supported by 60 petitioners, and opposed by 99. If the town

early increase the public expenses, (which are already enormously high.)

The committee have come to the conclusion that it is not yet expedient to divide the town, and recommend that the bill be rejected. They make this recommendation the more readily, as the bill passed the Assembly on the petition only ; no remonstrance having been presented to that House.



IN SENATE,

March 26, 1831.

MESSAGE

**From the Governor, transmitting certain resolutions
of the Legislature of Massachusetts.**

TO THE SENATE.

GENTLEMEN,

The accompanying resolutions of the Legislature of
Massachusetts, have been transmitted to me by t
commonwealth; and in compliance with his requ
to you.

E

Albany, March 24, 1831.

No. 67.

IN SENATE,

March 31, 1831.

RESOLUTION

**Offered by Mr. Foster, for the Amendment of the
Constitution.**

Resolved, That the following amendment be proposed to the Constitution of this State, and that the legislature next to be chosen, and publish visions of the eighth article of the said

That the duties on the manufacture the act of the fifteenth of April, one seventeen, and by the tenth section o constitution of this state, may, at any ti an act of the legislature of this state : is appropriated and pledged by the sa the sum of six cents upon each and evi ties shall remain inviolably appropriate by the said tenth section :

And that so much of the said tenth cle of the constitution of this state . amendment, be abrogated.

IN SENATE,

April 1, 1831.

REPORT

Of the committee on state prisons, on two engrossed bills from the Assembly, the one entitled "An act to provide for sick and disabled seamen," and the other entitled "An act respecting the expenditures of the Quarantine establishment, and the compensation of the officers the

Mr. Throop, from the committee on state referred two engrossed bills from the Assembly, the one entitled "An act to provide for sick and disabled seamen," and the other entitled "An act respecting the expenditures of the Quarantine establishment, and the compensation of the officers the

REPORTED AS FOLLOWS:

That, with a deep sympathy for the numerous men, and with every disposition to sustain the form passed by the Assembly, the committee, in the sense of duty, however thankless and unpresent such considerations as to their judgements connected with the subject, and which, to some wishes of those desirous of having the bill in the hands of the committee.

In the view taken of the subject by us, the payments heretofore made by seamen, is to have been often denied, but not with sufficient cause to have carried the question to a final judicial decision. We now understand that a suit is in progress to decide definitively, the validity of the present

prosecuted by those who deny that the State can impose a tax upon seamen entering the port of New-York, on the ground that Congress has the exclusive power to regulate commerce, and that imposing a tax upon seamen entering the port of New-York, is a commercial regulation. We are not disposed to deny this position; but the error in it is, that the payments are not as a tax for the purpose of raising revenue, but for the purpose of carrying out the laws relating to the public health. Although the states have yielded to the general government the exclusive power to regulate commerce, yet pilot laws, health and quarantine laws, police laws, &c. although they may affect somewhat commercial intercourse and trade, and may so far be called commercial regulations, are clearly within the sovereign power of the State.

In the 1. Revised Statutes, p. 444, &c. will be found a portion of the chapter entitled "Of the Public Health," the provision requiring these payments. The health commissioner shall collect from the master of every vessel arriving in the port of New-York, from or himself and each cabin passenger, and \$1 per passenger, mate, sailor or mariner, and 25 cents per ton for every coasting vessel. These payments are called "health monies," and "shall be appropriated to the Marine Hospital." The Marine Hospital is a part of the establishment, erected by and under the authority of the government of the commissioners of health, for the purpose of providing a provision to sustain the public health. The commissioners to effect this, its primary object, provide for the sick and disabled of both sea and land, who are subjected to quarantine, and to minister to the discharge of this, their duty under the law, and believe, that no exceptions are taken or made by the present officers.

in order to present the true character of the law now made under the law; and it is seen that the character of a tax or impost upon commerce, which the State cannot impose, but most clearly a munition to preserve the public health. The monies are collected for the health, and appropriated by them to the use of the Marine Hospital, an establishment provided to protect the people from the ravages of yellow or pestilential fever. The present form can be sustained, and is not unnecessary. The payments should, by changes, as propo-

sed in the bill under consideration, lose this character, by being disconnected entirely from your quarantine or health laws, in the manner, the object and uses of their collection, the committee cannot perceive upon what ground they could be sustained against the objection that they then would be imposts laid upon entering our port of New-York, and for the purpose of raising revenue. Surely there can be no difference in the character of the law, if the moneys were to be drawn directly to the treasurer, or granted to endow a college or a seamen's retreat.

The committee have been in the habit of thinking, that since the decision of the great case of *Gibbons vs Ogden*, by the Supreme Court of the United States, these questions have been put at rest, and their views will be better understood by quoting from the able opinions of the learned and venerable chief justice of that court, 9 Wheat. 203 & 4. He says, "But the inspection laws are said to be regulations of commerce, and are certainly recognized in the constitution as being passed in the exercise of a power of the states. That inspection laws *may have* a remote influence on commerce, will not be denied, but *the regulate commerce* is the source from which the right is derived, *cannot be admitted*. The object of inspection improve the quality of articles produced by the labor to fit them for exportation, or it may be for domestic use upon the subject before it becomes an article of foreign or of commerce among the states, and prepare it for export. They form a portion of that immense mass of legislative powers which every thing within the territory of a state not embraced by the general government: all which can be most advantageously exercised by the states themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a state, and those which respect trade with foreign nations and among the states, are component parts of this mass."

"No direct power over those subjects is granted to the federal government; consequently they remain subject to State legislation. If the legislative power of the Union can reach them, it must be for some special purpose; it must be where the power is expressly granted for a special purpose, or is clearly incidental to some power expressly given. It is obvious that the government of the United States, in the exercise of its express powers, that, for example, of regulating commerce with foreign nations and among the states,

that may also be employed by a State in the exercise of its acknowledged powers, that, for example, of regulating commerce within the state.

"If Congress license vessels to sail from one port to another in the same State, the act is supposed to be necessarily incidental to the power expressly granted to Congress, and implies no claim of a direct power to regulate the purely internal commerce of a State, or to act directly on its system of police. So, if a State, in passing laws *on the subjects acknowledged* to be within its control, *and with a view to those subjects*, shall adopt a measure of the same character with one which Congress may adopt, it does not derive its authority from the particular power which has been granted, but from some other which remains with the State, and may be executed by the same means. All experience shows that the same measures, or measures scarcely distinguishable from each other, may flow from distinct powers; but this does not prove that the powers are identical.

in their execution may sometimes apply as to be confounded, there are others sufficiently distinct to establish their in

acts of Congress passed in 1796 and 1799, the officers of the general government to the execution of the quarantine and health (it is said) upon the idea that these laws (he says) undoubtedly true, that they do and the constitutionality of such laws are informed, *been denied*. But they do not deny that a state may rightfully regulate commerce among the states; for they do not (quarantine and health laws) are an exercise *with a view to it*. On the contrary, quarantine or health laws, are so denominated in and are considered as flowing from the *state to provide for the health of its citi-*

no encomium from the committee, nor no reduction into this report. Besides their object referred to the committee in this bill, upon other disputed powers would comparison of the Senate,

The committee refer the Senate to the bill under consideration, and believe all its provisions essentially change the character of the payments to which it relates; the law imposing them, as it now stands, instead of "flowing from the acknowledged power of the state to provide for the health of its own citizens," and "enacted with a view to it," would divest these payments of this character, and be in fact an exercise of the taxing power for the purpose of raising revenue. It is true that the revenue is for endowing an alms-house for sick and disabled seamen, to be called a Seamen's Retreat; and however praiseworthy the beneficence, and however salutary and beneficial would be the provision to the persons making the payments, yet it is denied that the authority of the State extends to imposing a tax *with such a view*, solely and exclusively, upon seamen and passengers on entering the port of New-York. It would be taxing commerce, an unalloyed commercial regulation, which has been surrendered by this State to the general government.

We think a consideration of some of conclusively. The first section designates the health officers, to whom these payments the second section, designates their title, and the uses to which they shall apply to providing in the counties of New-York a "Seamen's Retreat," which shall be and for the use of sick and disabled seamen. The third section empowers the trustees to collect the payments for so doing, and pay the expenses of point physicians, nurses, &c. who shall be under the direction, and to allow them compensations for the government, &c. : to be paid annually, for all monies received and disbursements. It repeals all the parts of the charter relating to the public health, so far as it empowers officers of health to collect or appropriate the payments imposing the payments to the Marine Hospital for sick seamen—and in the eleventh section it gives the trustees the same powers and penalties for not paying them, as an officer and commissioners.

It will thus be seen, and more particularly when the quarantine or health laws are complete,

bill; and the Senate will judge if it be not, as above designated, a law to impose a tax upon commerce to endow an almshouse.

But a provision in the sixth section refers to the quarantine, and provides, that the trustees shall contract with the health commissioners for the support of seamen when subject to quarantine, and shall pay their reasonable expenses during the time they shall be so subject and remain at the Marine Hospital. This provision, instead of giving this the character of the present law, as part of the quarantine regulation, shows its more complete divorce from the health laws. The quarantined seamen are to be supported at the Marine Hospital, not by reason of his payment of hospital monies, but in virtue of a contract to pay his board and expenses, to be made by the trustees, no way connected with the preservation of the public health, created by this act, and accountable to the financial officers of the State for the disbursement of the monies.

The committee present but a slight view of the provisions of this bill: before the Senate to be duly weighed. Not so full in our description, the error or whom this report is prepared: and our objections which make it necessary, if the bill.

Opinion that the bill under consideration is, not so full in our description, the error or whom this report is prepared: and our objections which make it necessary, if the bill.

and that it has been calculated by the payments which were to be made under the sixth section, would amount to a sum which they are assured that the ordinary expenditure cannot exceed \$15,000 annually—so

that the amendment proposed will require only about \$7,500 from the payments by seamen, which does not vary much from the amount that would be abstracted, as the provisions of the bill now are.

They also submit, that upon every just principle, that hospital should be sustained out of both funds—because it is provided to minister to the sick of both seamen and passengers—and for both classes, equally, must be kept provided at all times of quarantine, with all necessaries of medical attendants, medicine, provisions, clothing, and domestic comforts and attendants, whether there be any quarantined seamen or not, requiring such aid.

This report has swelled already far beyond our wish, but some of the committee cannot forbear to submit farther, that the effect of the two bills in their present form, and particularly the second referred to, is to throw the quarantine establishment upon the public treasury of the State; and although we would not say that the payments by passengers would not be adequate to sustain it, yet the amount from that source cannot be said to be sufficient to sustain it. It would arrest the immense masses of emigrants yearly flocked to our shores, and the signs that a reliance upon this source is peculiar to the present state of the old world. But pestilence on our shores would produce a similar effect, and would culminate that our port will never be avoided.

In such an event, the amount could not be drawn from the State treasury; and any deficiency would have to be drawn from the State treasury.

But the mode of compensating the officers of New-York, provided in the second bill, is not tried by the State, particularly in respect to the Supreme Court. It is conceded generally, that the experiment was to draw from the treasury the fees of the officers—but the fees returned, by a diminution of the difficulty and inability to collect them, rendered the arrangement a losing experiment.

We are not aware that any complaint is made of the amount of fees paid to the health officer for visiting and boarding vessels in every danger. If there be any just ground

be obviated by a reduction of the fee allowed for the service. There can be no reason why the personal earnings of the health officer should be paid over to the support of the House of Refuge: the connection or relationship cannot be conjectured by the committee.

The majority of the committee, accordingly, report against the passage of the second bill, and recommend the passage of the first, with the changes and amendments above suggested, and submitted in this report.

IN SENATE,

April 1, 1831.

REPORT

**Of the committee on claims, on the petition of
Gilbert D. Dillon.**

Mr. Hubbard, from the committee on claims, to which was referred the petition of Gilbert D. Dillon,

REPORTED AS FOLLOWS :

That the petitioner is a resident of Kittery. In 1828, he was a lieutenant in a militia company, shortly after the death of Governor Clinton, he was appointed Adjutant-General, commanding the militia, and discharged their pieces at stated periods. In 1829, he assembled his company for the purpose of drilling, like a good and faithful officer of the State, he performed his duty, the piece, through the negligence of the performer, was accidentally discharged, and the petitioner sustained the side and wrist. For several months after the discharge, the petitioner was confined to his room, unable to perform his duty. His right arm and wrist still remain in pain.

Such are the facts in this afflicting case of the Adjutant-General, he has been unable to perform his duty. But while the committee sincerely sympathize with him, they are compelled to state, that there is no law to afford him relief.

The law relating to the militia, provides that whilst in the actual service of the State, no person shall be liable in opposing or suppressing any invasion, and that care be taken of and provided for at the expense of the State.

petitioner does not come within the provisions of this section of the law ; and the committee are not aware of any precedent which would authorise them to introduce a bill for his relief. Yet his case is one of peculiar hardship. In the discharge of what seemed to be his duty as an officer, he has been disabled for life ; and if any disaster of this description would authorise us to overstep the bounds of a prudent and cautious policy, to gratify the better feelings of the heart, this is one. And although the committee have come to the conclusion to offer the following resolution, yet they do it with regret ; and should the Senate be of opinion that the peculiar nature of this case requires relief at their hands, they will most cheerfully introduce a bill for that purpose.

IN SENATE,

April 4, 1831.

REPORT

Of the committee on so much of the Governor's message as relates to the distribution of the surplus revenue of the U. S. among the several states of the Union, and also the concurrent resolution of the Assembly proposing such resolution.

M. Beaton, from the select committee much of the message of the Governor as of the surplus revenue of the United States of the Union, and also the concurrent resolution proposing such distribution;

Reported as follows:

That the importance of the subject relative of the committee, and its immediate constitutional interests of the country, seem to the Senate views in relation thereto, would to embody so as to present the question connected, in a shape to be understood.

The means of arriving at the object of executive recommendation are not indicated it is obvious that the most direct and feasible will present the fewest obstacles to be such means of arriving at the desired result. adoption of the resolution as equivalent to of this State, that Congress now have the proposed distribution without resorting to an believed such a conclusion does not necessa

ses assumed by the resolution; nor shall we be compromitted to a contrary doctrine.

It is not suggested in the Executive message of the present year, that an amendment of the Constitution of the United States is necessary, in order to vest in Congress the power of making a distribution of the surplus funds which may at any time remain in the treasury; but in the communication of the last year, the Governor observed, that "if constitutional obstacles exist against the measure, they may be removed by constitutional means." It becomes, then, the duty of the committee to extend their examinations, and present the results to the candid consideration of the Senate. We are aware that differences of opinion exist, but we believe that an expression may be given in reference to the expediency of this measure, without subjecting ourselves to the charge of attempting to overstep constitutional bounds. Although the committee entertain these opinions, and although they in no respect feel inclined to go into the discussion of questions of constitutional power, in the least hand, they are still constrained to present the exercise of the power of appropriating government, to works of internal improve-

ed are sound, and the doctrines relied upon to the action of the general government, our conclusions, if a strong and simultaneous States is not made to arrest the evil before manently engrafted into our system.

esenting the whole subject matter before the a form as the committee are able to place it, appropriate to direct our attention, in the first which the federal government have appropriated the public money to the objects asoning opposed, and deduce the consequences from the practice. That government has

works of internal improvement within the suming jurisdiction over the territory which r to preserve them when constructed, and to ed on them;"

2d. "To appropriate money from the national treasury in aid of such works, when undertaken by State authority, surrendering the claim of jurisdiction;" and

3d. "To aid in the construction of such the stock of private associations or incorp

In opposition to the exercise by Congress either of the above heads, the following has been advanced.

"In Mr. Madison's celebrated report on the subject believed to contain the soundest principles of the federal government exists a rule which to determine whether a given power is constitutional or not. That rule is this; where the constitutionality of a particular power is, whether the power be expressed or implied, the question is decided; if it be not expressed, the question is, whether it be properly an incident and necessary to its execution. If it be an incident to Congress. If it be not, Congress cannot exercise the power claimed shall be tested by the absolute result? "It is not pretended that the question is to be found among the powers expressly enumerated. If, then, it is not found among the powers of Congress, is it properly an incident to the execution of some power? Is it an incident of which any of the express powers cannot be separated? powers are confined in the constitution to laws which shall be necessary and proper to the execution of the enumerated powers; but under this, Congress may do any thing, which in the opinion of Congress tends or remotely lead to such a result. Congress must not be exercised for the ends which are not its own, but for the ends of the principal power, independent of the principal power. To be an incident to a principal power, it must be necessary and proper to the execution of that principal power. It must be accessory and subordinate to that expressed power. It must be a power which is necessary and independent." By applying this rule to the constitution, is it not most evident

sion irresistible, "that the incidental power to make roads and canals is not necessary to the execution of any of the granted or express powers; that each of 'the express powers' may be carried into full effect, without the aid of such an incident; and that, therefore, if assumed, it must be as a principal or substantive and distinct power of itself, no where to be found among the enumerated powers of the constitution, and that it results, therefore, that no such power exists?"

Attempts have been made at different times, and under varied circumstances to mould the constitution into a shape to meet this or that inquiry, and to conform it to the popular doctrines of the day. But what is it that is thus made the sport of time and chance? "A constitution," says a learned judge, "is the form of government delineated by the mighty hand of the people, in which certain first principles of fundamental law are established. The constitution is certain and fixed; it contains the permanent will of the people, and is the supreme law of the land; it is paramount to the power of the legislature, and can be revoked or altered only by the power that is it. The life-giving principle, and death-dying stroke must proceed from the same hand. The Legislatures are creatures of the constitution; they owe their existence to it, they derive their powers from it. The constitution is the work or will of the people themselves, in their original, sovereign and unlimited capacity. The constitution fixes limits to the exercise of legislative authority, and defines the orbit in which it must move."

The 10th article of the amendments provides, that "the powers not delegated to the United States by the constitution, nor prohibited to the States, are reserved to the States respectively, or to the people." This provision, it seems to the committee, establishes that the general government possesses no power other than those specifically granted. Those who claim any particular power, either express or implied, are bound to produce and point out its express and explicit constitutional authority for its exercise. Those who have claimed this power have at no time pretended it was a power specifically granted, nor have admitted it as an incident to some or one of the powers specifically granted powers, and not being able to agree upon what this incidental power was subordinate, some have based it upon one and others upon different of the express powers. In the opinion of the committee, that the assumption of such a power is a very just rule of construction, and if persisted

in and practised upon will, by legislative construction only, lead to its establishment as a primary and independent, not a derivative and incidental power. A consequence to be deprecated by every true friend to the institutions of our country. But the committee will now examine into the tendency and bearing of the exercise of the power on the part of the general government, in the first and third modes before mentioned. As to the first, Congress cannot exercise this power without assuming; first, jurisdiction over the land and territory which is to be occupied by the improvement, whether road or canal, without the assent of the State in which it is constructed; second, the right to preserve the work when constructed, by further appropriations and cautionary means of preservation; and thirdly, legislation in reference to the subject to prevent and punish offences committed on such works.

As to the third; by this mode the United States become stockholders in private associations of individuals; or in the companies incorporated under the State authorities.

is an exercise of sovereign authority, and tempted to pass an act of incorporation which carried on in any of the individual States, United States; and we think it may with that Congress have not the constitutional corporation for a rail-road, turnpike, or jurisdiction of any one of the States. No the government a member of private union a stockholder in the State institutions; and of an incorporated company may be held received why the whole, (except perhaps one of directors, or officers to conduct the affairs not be subscribed, paid for, and owned by No matter how profitable the work, how how large the dividend; the property, property by the government, will not be subject to be conceded that the power is vested, and how any act of precaution on the part of prevent an investment in our local corporations able in amount. If the power be expressly incident to any expressly granted power then are the State constitutions, and the subordinate to the constitution and laws of and any State law containing a prohibition

preme law of the land, will be pronounced invalid by the federal judiciary ; and equally unavailing would be any provision of a State law which would go to restrain the action or power of Congress. Thus presenting a state of things in the existing relations of the State and federal governments neither contemplated by the powers of the constitution of the general government, nor those who gave their assent to it by adoption. That its framers could not have intended to confer these powers is quite clear from the fact, that the convention rejected various propositions which conferred the power. One proposition was the establishment of the office of "Secretary of Domestic Affairs," and to make it his duty to "attend to matters of general police, the State of agriculture and manufactures, the opening of roads and navigations, and the facilitating communications through the United States." And why did the convention refuse to incorporate into the constitution a declaration which would have put the subject entirely at rest? Was it because the power had been already conferred? If so, then as has been before remark-

ain. But was not the rejection founded on the ground that its exercise would prove pernicious to the Union, as it would lead to a consolidation of all power in the federal government, and break down all the land marks of separation between the State governments?

of money from the national treasury in aid of internal improvement, when undertaken by State authority, is a violation of the claim of jurisdiction, the committee of the House of Representatives is of opinion that a different principle is involved, or rather the same principle in a different shape, in regard to the action of Congress in this head, the money is always appropriated to the use of the State authority, and cannot be done without the sanction of the State to exercise a power which is within the power of the State to exercise a power of appropriation, although States not benefitted, and the Senate, when in Congress, could not interpose its objection. It should be borne in mind when considering this question, that when about to enter upon the construction of the Champlain canals, made an application to the State of New York for aid in those great and important works ; and the Congress had no power under the constitution to refuse ; and the Legislature of the State, after being properly settled in this refusal, or rather in the refusal to make a further effort in that quarter, and not the commencement of the enterprise, single handed

applied the energies and resources of the State to the accomplishment of the undertaking. We should, however, keep constantly in view the all important fact, that without the aid of the credit of the State, even New-York, with all her resources and physical power, could not have constructed these two important communications in the time she did, without imposing a most burthensome and ruinous tax upon her citizens, of nearly one million

Under the power of appropriating the its legislation, in different shapes, has millions of dollars to works of internal improvement on some of the States of the Union, for twenty millions of acres of land, equal millions of dollars. A portion of these lands lie instruction, and other portions to aid rence to the history of our congressional this has been the uniform practice almost States, in the old Northwestern Territory Union. When, therefore, we take into tant fact, that what was then called the ry," and is now the states of Ohio, Indiana, and Michigan, and the Northwest claimed entire by the State of Virginia, a New-York, Massachusetts and Connecticut charters or grants from the crown of Great Britain, right, title and claim, as well of soil as the above States to the United States, to grant from Virginia, "held and considered for the use and benefit of such of the United States as may be interested in the same, and for the use and benefit of the members of the confederation, or federal alliance, from Virginia inclusive, according to their usual and accustomed share of the general charge and expenditure, to be disposed of for that purpose, and for no other purpose," and when we further consider the Louisiana cession, the purchase of the claims of Georgia, have been made a part of the fund of the Union, to which New-York and every State make contribution of her proportion, may where is the injustice or impropriety in individual States receiving their equal share of the fund belongs to them. Pennsylvania and New-York upwards of twenty-five millions of dollars

ent of their own treasures ; or this amount has been and is about to be thus expended, and what proportion of the thirty millions disbursed by the national government has gone to aid the people of these States ? Comparatively none. The committee are fully aware that Pennsylvania is every way capable of asserting her own rights, and judging of her own interests, and they have named that State, in connection with their own, only for the purpose of more forcibly illustrating a just and equitable proposition.

But this is not a view of the whole ground ; “ at the adoption of the federal constitution, (to use the language of the Executive, in relation to this subject,) it was deemed proper to place all the revenues derived from customs, at the disposal of the general government. Inasmuch as that government assumed the payment of the public debt, and was charged with our foreign relations, the protection of commerce, and the military and naval defence of the country, it certainly was a wise and equitable disposition of that

Yet, thereby the individual States are means of supplying their wants by indirect y nation mainly relies ; and those States or other public funds, are constrained to tax.”

home to ourselves, it is not the wish or : to excite in our citizens the least feeling rovision of the constitutional compact of h for us to displace one necessary compo- political safety, or to disarrange the ma- ionious action to all the operations of the s not see and know that in the surrender he customs, New-York has, at least con- ublic purse ; and it may with propriety be of her citizens are equal to those of any and these claims are much enhanced by ith their own resources ; and by their own great works of improvement, by which s of the Union can seek a market by a of transportation. And in doing which, ources almost to the last penny, and have confines of a direct tax.

on is authorized to lay and collect taxes, s, to pay the debts and provide for the

common defence and general welfare of the United States. To regulate commerce with foreign nations, and among the several States, and to make all laws which shall be necessary and proper to carry into execution the above powers.

"This authority having thus entirely *right* to exercise it" for any purpose, and consequently, if it be not possessed it must be extinct," and this surely cannot be a just construction of delegated power. If Congress upon a question of admitted revenue in the public treasury, is it not by feelings, and more compatible with the each should "receive its quota of the national use upon a fixed principle, as a matter of the creation of which it had contributed that such State in its "sovereign character" "at the bar of the federal Legislature for national treasury, as it" might "comport of duty to bestow?" "The importance of sovereignties, as far as is consistent with federal government, and of preserving harmony between them," is strongly impressed upon the people of the Union. And the committee "that the political creed, which inculcates objects as a paramount duty, is the true, are mainly indebted for the present success to which we must alone look for its future

The interference of the national government with the mere local concerns of the State, makes a discreet exercise of power; and the behavior of the particular States, which may serve as a precedent to an intelligent and free people, and tend to create distrust of the honesty and integrity of the mind of the constituent. These considerations strongly upon our judgments the great well as the undoubted expediency, of some fixed rate, and placing it upon some

The executive recommendation, and the committee, present the abstract questions of constitutional difficulties are suggested,

the committee, why the Legislature should not make an expression of its opinion in the manner proposed.

When the question is distirectly presented to the consideration of Congress, upon the call of a majority of the States and a majority of the people, should that body under such circumstances determine there is no constitutional power vested in them to make the proposed distribution, an amendment would remove all difficulties. Why then should we not improve the time intervening this and the period when the national debt shall have been wholly extinguished, to present this all-important subject to the sober consideration of our constituents? It has been said that "the constitution of the United States was ordained and established, not by the States in their sovereign capacities, but by the people of the United States; it emanates from them, its powers are granted by them, and are to be exercised directly on them." Be it so. Are the people of the States precluded or prohibited from acting by their representatives

in question of constitutional amendment?
prescribing the mode of amending the
action of the people by States, and by
as, and not by each individual as a con-
ple compact. The people by States can
owing the rule prescribed. On the appli-
of two-thirds of the several States, Con-
tion for proposing amendments.

comes necessary in the opinion of the
mean the majority of the people of the
zens of (the State in contradistinction
zens of the United States,) to confer a
abrogate a power granted, it can be done;
here the consent of a majority of all the
d not be had. A State, as such, might
, when a majority of the electors might
egal, constitutional power of making an
wh circumstances, is clearly recognized.
e ratification of the constitution, involved
committee have adverted to these facts,
ving, as we believe they do, the propri-
eclaration, in a case which may give rise
order to bring the matter to a point where
ade, we do not consider it expedient or
atives of the people of this State to as-

sume as settled, what they single-handed. It must be admitted that we cannot determine construction which by any possibility will be the Legislature, although we may, acting in the States, confer a particular power, or restrict in relation to any one expressly granted. In priety, it is believed, express our opinion on a question of general concernment. It behoves representatives of our constituents, and as watchmen of the public weal, to do so upon every momentous question. Is this not such an one? Shall we keep silent to be heard, when we see Congress appropriating and somewhat approximating in the expenditure of one hundred and ninety millions for internal improvement, and not hardly a dollar in our own State, when, by the proposed bill, that sum be disbursed from the treasury to the States, entitled to receive at least twenty-seven millions for our affairs, should we quietly fold our arms and show concern and indifference to the important rights of the people of this State, while they are drained by the imposition of imposts and custom duties? If adequate equivalent or corresponding benefit is feared, be justly chargeable with want of concern for the concerns of our constituents.

It has been urged by many, and among the highest authority upon questions of this sort, that no law be made without resorting to the expedient of a rule of construction long acted upon by the States; and it would seem that the States, of the public domains, to States, cannot be made the subject of a direct grant of money, without entailing conditions of construction, "more refined than the web." And should this continue the rule, should we insist upon the assumption of power, if it be assumed, nothing can reach or control this right of appropriation; nothing will resist its exercise but the limited expression on the part of the States. Can we now indulge in a well grounded objection to effecting an amendment which will restrain the power? Let us look for a moment to

situation of the states! We know that the spirit of eighteen of the twenty-four States will be necessary to accomplish the object. Let us enumerate the States which have been and still hope to be benefited by a continuance of the above mode of disposing of the common property, and also those which complain of being injuriously affected by the protective policy, and we must for the present pronounce the project utterly hopeless. This concession should not, in the opinion of the committee, deter the Legislature from giving an expression of opinion, which in all probability will at some future day lead to beneficial results, and exercise an influence tending to produce benign and happy consequences.

Enjoying our proportion of this surplus, and at a certain rate not liable to sudden changes from the legislation of Congress, the fluctuations of commerce, or the changes in the tariff of duties, we shall be enabled to establish a sinking fund for the payment of the redemption of any debt which might be judged extending our own works of improvement; annually into the treasury, with such contribution as we shall be able to make from our own resources, without adding anything to the burthens of our constituents, proceed in such new works as they in their wisdom may deem proper, without increasing the present State debt.

IN SENATE,

PETITION

Of the Trustees of the Le
House

To the Honorable the Legislature

The petition of the trustees of the I
in the city of New-York,

RESPECTFULLY SHEWETH :

That by the will of John G. Leak
New-York, deceased, he devised as
personal estate to or in trust for Rob
a certain condition, and if he should
condition, then to certain trustees, to
purchasing and endowing of a house
dow a building in the suburbs of it
maintenance, and education of as m
(paying no regard to the country of
deceased parents,) until they shall
put out apprentices to trades, or serv
deem the annual income arising from
port.

That your petitioners are the trust
and have been incorporated by an ac
the present session, entitled " An ac
Watts Orphan House, in the city of

That the said will has been establi
sonal estate, but not having been exec

[S. No. 71.]

ties, is inoperative as to real estate, and the said John G. Leake having died without heirs, his real estate has escheated.

That John Watts, the father and next of kin of Robert Watts, the above named devisee, having with great liberality consented to relinquish the personal estate so bequeathed, as aforesaid, except certain bank shares, for the benefit of the said charity, the executors of the said will have, under the authority of the said act, assigned the same to your petitioners.

Your petitioners hope that the Legislature will not be less generous than Mr. Watts, and that they will not permit the informality of the said will to deprive this useful and noble charity of the lands intended by the testator for its benefit; but on the contrary, with their accustomed munificence, will take pleasure in carrying into effect the benevolent intentions of its founders, and for that purpose, rest only on the omission of technical

humbly pray that you will be pleased
petitioners, for the purposes of their
people of this State to the lands
died seised in fee.

shall ever pray, &c.

WALTER BOWNE, *President.*
Clerk.

IN SENATE,

April 7, 1831.

COMMUNICATION

From the Mayor of New-York, transmitting a resolution of the Common Council of that city relative to the tax upon seamen.

Mayor's Office, N

SIR—Resolutions, as annexed, on 1 seamen, passed the Common Council I therewith, I transmit the same to your

I have the honor to be, with

Your obedien

WA

Resolved, That the Common Council recommend to the Honorable the Legislature present law imposing a tax upon seamen amended that the whole amount collected be appropriated to their sole and exclusi

Resolved, That his Honor the Mayor the Legislature, through the Governor of foregoing resolution.

[Extract from the minutes.]

IN SENATE.

REPORT

Of the Regents of the University

**TO THE HONORABLE THE LEGISLATURE
STATE OF NEW-YORK.**

The Regents of the University herewith
transmit copies of the annual reports from the
College of Agriculture, and from the College of Physicians,
New-York, received by the Regents since
the last Session of the Legislature.

By order.
SIMEON D. HOWLAND

Albany, April 4, 1831.

REPORT



Report of the Trustees of

The Trustees of Columbia College
Regents of the University the following
institution.

The following extract from the last
Board of Trustees, will exhibit a view
cult in carrying into effect the statute
January 1836, and noticed in the report
for establishing partial and voluntary
several departments, and especially it
will show also the number of students
full course and the scientific and litera

"Immediately subsequent to the la
the requisite measures were taken by
carry into effect the statute of the 16th
ing, in addition to the full course of s
a scientific and literary course of inst
were matriculated at the last session f
course ; and as they attended such port
in part by lecture, they were, in accor
statute, united with the proper classes

"Public lectures in several of the d
the statute referred to, were announced
last session, and some were delivered ;
the exception of an experimental course
encouragement was not such as to ind
part of the other professors to avail th
lowed by the statute. At the present
Turner has delivered a free course, con
the Hebrew language and literature.
proceeding with a course of public lec

"At the late annual commencement
Arts was conferred, in conformity with
teas, upon nineteen students of the ses
maining classes eighty-four matriculate
Of this number, eleven did not re-app
sent session—of whom, one died previ
four were found incompetent to procee
es, and three have since received regu
of their parents.

"At the present session, two additional students matriculated in the Junior class, nine in the Sophomore, and forty-seven in the Freshman classes, making the whole number matriculated for the full course, one hundred and thirty-one. Of these, however, seven have withdrawn during the session—of whom one has been engaged as an assistant in the Grammar school—three did not attend after matriculating—two have not received regular dismissals, and one has, with my assent, re-entered the grammar school with the intention of returning to the college at the commencement of the next term. The present number of students matriculated for the full course, is therefore one hundred and twenty-four, viz.

In the Senior class,	22
In the Junior class,	23
In the Sophomore class, ..	34
In the Freshman class,	45

Total,..... 124

"For the partial course, the number matriculated at the present session is ten. So that the aggregate increase upon the number attending both courses at the close of the last session, is twenty-seven. Of those attending the full course, seven were admitted under the statutes, and by virtue of resolutions of the Board of Trustees, free of the charges of tuition, viz. two at former sessions, and five at the present."

Since the last report from the Trustees to the Regents, Mr. Ogilby, head master of the grammar school, has resigned his situation in that school; and Mr. Anthon, the Jay professor of languages in the college, has consented to take the school under his charge, in the style of *Rector*. His attendance at the school is so regulated that he does not interfere with his duties in college; and the most sanguine hopes of success to the school are entertained from this arrangement. Mr. Anthon entered upon his duties as *Rector* of the school of scholars. The number has now increased to 140, viz. 90 in the classical and mathematical department, and 50 in the English

department. As already referred to, the President further states, that in the exception of instances already known to the Board of Regents, the conduct of the students has in general been satisfactory, and under a system intended to unite mildness with firmness. He is satisfied, that with the cordial co-operation of the Faculty, the college will be found to be improving."

Which is respectfully submitted.

By order of the Trustees.

(Signed,) CLEMENT C. MOORE, *Clark*.

31.

G. HAWLEY, *Secretary*
of the Regents of the University.

Report of the Trustees of Hamilton College, to the Regents of the University of the State of New-York.

The faculty of the College consists of the following officers :

Rev. Henry Davis, D. D. President,	Salary, \$1,800 00
James Hadley, M. D. Prof. of Physical Sciences,	" 500 00
John H. Lathrop, A. M. Professor of Mathema- tics and Natural Philosophy,	" 800 00
Simson North, A. M. Professor of Languages,	" 800 00
Ebenezer D. Malthie, Senior Tutor & Librarian,	" 475 00
Francis Randal, A. B. Junior Tutor,	" 400 00
	<hr/>
	\$4,775 00

Professor Hadley entered upon the duties of his office with the commencement of the present term, which was the first Wednesday in February : He will continue to lecture upon the physical sciences through this and the succeeding term.
employed in the discharge of their res-
mencement of the collegiate year.

The number of students in the college are classed as follows :

Seniors,

Juniors,

Sophomores, ..

Freshmen, ...

Total,

The terms of admission to college, as pursued by the respective classes, have variation since the date of our report for library, the chemical and philosophic were at the date of our last annual report the institution. To that report therefore specific information, if needed, on these over to remark, that the annual income from the productive funds during the short of our necessary expenses : The

Dated March 4, 1831.

(Signed,) JOSEPH

O. WILLIAMS, *Secretary.*

A true copy,
G. HAV

Albany, April 1, 1831.

Report of the Trustees of the College of Physicians and Surgeons of the city of New-York.

To the Honorable the Regents of the University of the State of New-York.

The trustees of the College of Physicians and Surgeons of the city of New-York, respectfully report:

That during the last year the college has continued to maintain its high standing, both with the profession and the public, as is manifested by their undiminished approbation and support, and by an increased number of students in attendance on its lectures; (for list of students, see document A.) affording additional evidence of the wisdom of the plan of medical education adopted by your honorable body, and enforced by the salutary laws of the State.

Nothing has occurred since the last report made to your honorable body, to interfere with the prosperity of the College, or to check it in its honorable and useful career. The professors have sustained their acknowledged reputation as teachers of the different branches of medical science, have been gratified and encouraged in by enlarged classes, and the decorous attention of their by the prospect that is now afforded, under the fostering of your honorable body, and the Legislature of this State, of a medical school that shall be fully commensurate with the wants of our rapidly increasing population.

At the request of our treasurer, to which we refer your honorable body, we fully inform you of the state of our financial concerns, and the best evidence of the manner in which the fiscal affairs of the College have been managed by your trustees. It may be said, that no exertion on our part has been wanting to sustain the moral character and reputation of the College; and by a judicious management of its funds and administration of its affairs to promote its prosperity and advance its interests.

Of considerable interest to the College have occurred during the last year—one, the suppression by the Supreme Court of the Geneva College, illegally located in this city, and the settlement of the long litigated claims of the former. The first, important to the College as relieving it from an acrimonious opposition, and the security it affords against future violations of the law: the latter as freeing the College from those and embarrassments of suits at law, and the consequent expense and delay to our native creditors.

freedom from obstacles which have hitherto pressed and impeded our exertions in the pursuit of our objects, and feel gratified with our ability to meet our obligations to our creditors, without asking pecuniary aid—from our honorable body the impoverished state of the claims of the late professors, and the necessity which exists for the exertions of the Legislature, in obtaining for us such aid as the importance of our objects, and the necessities of the case may seem to you to demand.

For a detailed account of the extinction of the claims of the late professors, and other matters relative to the situation, plans and prospects of the College, we beg leave to refer your honorable body to the accompanying report of the treasurer of this board. And we would here express our entire conviction of the wisdom of the recommendation of our treasurer, that the ordinance of your honorable body imposing ten per centum per annum on the avails of teaching be revived; believing that under existing circumstances, it is the only practicable method of securing the stability of the institution, and procuring for it those facilities for teaching and demonstration, of which the college is at present so destitute, and without which a school of medicine cannot afford those advantages to the student which the advancing state of knowledge, especially in the natural sciences, so justly demands.

All which is respectfully submitted.

(Signed.)

THOMAS COCK, M. D.,
Vice-President.

[L. S.]

Attest,

NICOLL H. DERING, M. D.,
Registrar.

Adopted March 8th, 1831.

[Document A, contains a list of 17
donations of 1830 and 31, certified by N. E

TREASURER'S

The undersigned, treasurer of the College in the city of New-York, submits the finances of the college down till this date, and a statement of the receipts and expenditures of the year.

Since the last annual report, the late professor has been determined, and deducting therefrom the court in favor of the college, then against the college, exclusive of one hundred and eighty-six dollars and six cents, which add the debts due Dr.

Smith, the estates of Dr. De Witt ham, amounting to two thousand two hundred and fifty-two dollars and one cent,

Makes a total of the old debt of.....

In order to meet in part the payment of these claims, the college have raised by way of mortgage on their building, the sum of fourteen thousand dollars from the Farmers' Fire and Loan Company.

Schedule B, here accompanying will show the receipts of the treasury during the last year, including the amount of the loan of..... \$14,000 00

Above stated, amounting to the sum of..... 17,737 41½

Schedule A, here accompanying, contains the disbursements of the college during the last year, including the payment of a part of the claims of the late professors, amounting to

17,459 38

Deducting the expenditures from the receipts, leaves a balance in the treasury of.....

268 03½

The debts due by the college at this time are as follows:

To the Farmers' Fire and Loan Company by mort-

g^e, 14,000 00

and judgment,..... 2,500 00

ingham,..... 146 00

..... \$16,646 00

remaining in the trea-

..... 268 03½

college, exclusive of a
able debts not present-
e of this report, to the

..... \$16,377 96½

use this report without making a few
bable means that the college possesses
ses, pay the interest of its debt, and

ge at the present time are from matri-
nuity of \$500 from the honorable the
The probable amount of those resour-
ing but one medical school in the city,

\$5 each, from 200 stu-

..... \$1,000 00

\$25 from each,..... 1,000 00

..... 600 00

college,..... 60 00

..... \$3,560 00

The probable annual expenditures of the college, will be as follows:

Interest on \$16,646, at 6 per cent per annum,.....	\$998 76
Porter hire,.....	250 00
Premium of insurance on college building,.....	42 00
Say contingent expenses, such as fuel, printers bills, the fee granted to the secretary of the honorable the Regents for each diploma, and repairs of the building, &c. &c.....	800 00
	<hr/>
	\$1,890 76

Deducted from the receipts leaves a balance of..... \$669 24
a part of which balance, if not the whole, ought to be applied, for
at least three or four years to come, for the purpose of collecting an
anatomical museum for the college; consequently there will re-
main no means from these sources for the gradual extinguishment
of the college debt.

At the time of the reorganization of the College, the ordinance of
the Honorable the Regents was in operation ordaining that ten per
cent on the avails of teaching should be applied to the purpose of
the purpose of gradually liquidating the debt. Soon after that period,
a second medical school was established in this city; consequently
the number of students of the College was diminished. Therefore it
was recommended to the Honorable the Regents to suspend the
ordinance now that the opposition school ceases to exist. At the
close of students during the present year, the most a certainty,
that a class of at least one hundred annually will be the result.

The undersigned therefore respectfully request the trustees, the propriety of recommending the
Honorable the Regents to revive the ordinance requiring the
avails of teaching to be paid into the treasury for the gradual
extinguishment of the debts by the College. This will enable the
College to pay off one thousand dollars of the debt, and the
whole be extinguished.

All which is respectfully submitted
(Signed,) J.

COLLEGE OF PHYSICIANS & SURGEONS,
March 8, 1831.

SCHEDULE A.

Report, containing the detailed account
of the College during the year 1830, viz :

student, not good,	\$3 00	
repairing College		
.....	\$100 85	
ce, iron work, .	35 98	
as, 1 qr. salary, .	62 50	
bill of sundries, .	2 75	
		202 08
or mason work, .	43 51½	
bill,	3 58½	
son's bill, printing, .	46 50	
as, 1 qr. salary, .	62 50	
		156 10
bill for sundries, .	3 62½	
pense at Albany, .	35 38	
do	50 00	
l, printing,	5 31	
		94 31½
pense at Albany,		100 00
bill for writing, .	10 00	
ar's bill, printing, .	3 00	
l, painting and		
.....	10 50	
Commerce, bill		
.....	14 00	
money advanced,		
bany,	50 00	
		87 50
ill for printing, . .	5 59	
for printing,	7 00	
rald, bill printing, .	12 56	
rican, bill printing, .	1 50	
		26 65
for 23 diplomas, .	69 00	
tiser, bill printing, .	0 75	
l, bill printing, . . .	6 50	
it for sundries, . .	1 56½	
r a qr. salary, . . .	62 50	
		140 31½
l, bill printing,		49 38
telegraph bill		
.....	5 25	
chimneys of		
.....	5 00	
n bad money rec'd, .	5 00	
		15 25
Carried forward,		

		Brought forward,		
"	"	Paid counsel fee to Mr. Jay,	50	00
Oct. 31.	"	premium for insurance on College,	42	00
Nov. 1.	"	T. P. Evans, porter, 1 qr. salary,	62	50
"	"	bill for sundries to do.	4	75
"	"	Lawrence & Laney, bill for repairs, 7 00		
"	3.	Porter's bill for wood,	5	56½
"	29.	the American's bill for printing, .	15	34
Dec. 3.	"	W. Reave's bill for coal,	19	12½
			<hr/>	
"	8.	John Wood, bill for repairs to the stoves, ..	47	03½
"	"	do second bill for do. ..	4	57
"	13.	the American, bill for printing, ..	28	94
"	"	Mr. Arguile, bill for repairs on College,	174	90
			<hr/>	
"	14.	the Albion, bill for printing,	21	00
"	"	Croswell & Van Benthuyssen, for printing 94 22		
"	"	do do sec		
"	"	Mr. John Boyd's bill for		
"	11.	L. Doyl's bill for mason		
"	16.	the Albany Daily Advert		
"	17.	the Commercial Advertis		
"	20.	W. M'Kay, bill for glazir painting,		

208 41

1831.

Jan. 7.	Paid	Dr. M'Neven's bill for from London in the yea
" 31.	"	to Samuel Boyd, Esq. in lance of his counsel fe
"	"	fees paid Messrs. Jay ar
"	"	To a bad \$5 bill received for n
" 29.	Paid	Thomas P. Evans, porter,
Mar. 4.	"	the estate of Dr. De Witt certificate,
"	"	the judgment in favor of against the college,
"	"	judgment in favour of Dr. I Hosack against the colle
"	"	int. on both of do. for 15

Carried forw

Brought forward.

"	" To cash paid the judgment in favor of the estate of Dr. Post against the college, \$3,237 86	
"	" Paid the judgment in favor of Dr. Francis against the college,.....	2,074 18
"	" Paid the judgment in favor of Dr. Mitchill against the college,.....	1,586 56
"	" Paid interest on those sums,.....	10 67
		<hr/> 6,909 27
"	" Paid Talmage and Bulkley, bill,	132 90
"	" Paid John Boyd am't of his bill, extra services,	50 00
"	5. Paid Dr. Hamersley the am't of his certificates against the college, and interest thereon,....	1,524 24
"	7. Paid Dr. J. A. Smith the amount of his certificate against the college, and int. thereon,..	65 84
"	" Paid J. D. Jaques for his services in attendance on counsel in explaining the nature of the various transactions at a number of times pending the long litigated suit at law with the college, together with his time spent, reflecting the title deeds, and spent in obtaining money, and the claims against the college,	500 00
		<hr/> Disbursements of the college, \$17,459 38

J. D. JAQUES, Treasurer.

331.

SCHEDULE B.

Report, shewing a detailed account of the college during the last year, to wit.

the last years report, available for urgent purposes of the college,	\$1,214 05½
the treasury last year available to pay the college debt,	547 61
from 16 graduates, at \$25 each, during session of 1829-1830, ..	400 00
rent for the cellar under the college,	30 00
donations from the hon. the Rev. Mr. [unclear],	500 00
the sale of \$5 bill of Washington [unclear],	1 25

Carried forward,.....

	Brought forward,.....	
Sept. 4.	One half year's rent for the college cellar,....	30 00
	The graduation fee from 6 graduates of the fall session,	150 00
Nov.	The matriculation fee from 170 students the present session,	850 00
Jan.	\$4.50 received from Professor J. M. Smith, being a part of the ten per cent. not before paid,	4 50
Mar. 4.	By \$14,000 borrowed from the Farmers' fire insurance and loan company, by mortgage on the college buildings,	14,000 00
Making the total of the receipts of the college, \$17,727 41½		

(Signed,) J. D. JAKES, *Treasurer.*
March 8th, 1831.

The undersigned having been appointed Treasurer's accounts, beg leave to represent the same, as well as the accompanying rect.

(Signed,)

New-York, March 8th, 1831.

I hereby certify the foregoing to be of the Treasurer of the College of Physicians and Surgeons of the City of New-York, presented March 8th

(Signed,) NICOLL

New-York, March 16th, 1831.

A true copy.

G. H.
of the

Albany, April 1, 1831.

No. 74.

IN SENATE,

April 5, 1831.

REPORT

Of the Regents of the University to the Senate, relative to the Literature Fund.

To the Honorable the Senate of the State of New-York.

The Regents of the University, to Honorable the Senate, the bill entitled application of the income of the Literature

RESPECTFULLY REPORT :

That having had the subject referred to them, and having adopted a report thereon, their body, they do herewith transmit to Honorable the Senate, as the report of the reference made to them as above

By order of the Regents,
SIMEON

Albany, April 4, 1831.

REPORT

to the Regents of the University.

referred the bill introduced into the Assembly, "An act to provide for the application of the Fund," which bill was, by the Hon. the Regents of the University,

Resolved :

That the said bill, and perceive no objections ; though it is proper to remark, that the assumption that a bill recently introduced which brings the whole income of the University treasury, will become a law. That it is in the Assembly ; and if it should be necessary to alter the provisions of the bill to conform to the existing statute,

The committee propose to substitute sections 2, 3, and 4, and the provisions is, to secure the application of the sums annually distributed to the academies, philosophical apparatus, and other objects to be kept in the academies for the

instituted with express reference to the returns made by some of the heretofore received by them from the State, even generally, been applied to it. As well as a just regard to the original intention, it would seem to require some new provisions, it is presumed that no reasonable objections will be proposed by your committee.

The bill referred to the Regents, authorises them to deem it beneficial to the interests of incompetent professors in literature and science, and under the care of the Regents, and

to perform various special duties, so your committee, could not very usefully sit. The principle of the section be usefully adopted ; though some amendments to be required, to conform the provisions of the bill to the existing statute for the said fourth section, as submitted, which will sufficiently inform your committee.

All which is respectfully

Amendments proposed to the bill,
the application of the income of the

Strike out section 2 and insert the

Section 2. The said Regents in their annual report, shall deliver to the Comptroller, under the corporate seal, and under the signature of the Secretary, containing the names of the persons who share in the distribution, with the sum which upon the Comptroller shall draw in this State, in favor of the trustees of the academy assigned to it, except where the said Comptroller is directed to apply a part of such sum to the purchase of books, or other articles for the use of the academy, in the certificate to the Comptroller, the amount as they may deem necessary to be paid to their secretary, and the residue of the same to the trustees of the academy ; and whenever any such direction shall be contained in the certificate, it shall be the duty of the Comptroller to warrant on the Treasurer in conformity

Sec. 3. Whenever any part of the income of the academy shall be paid to the secretary of the academy, in pursuance of the foregoing section, it shall be his duty to deliver the same to the trustees of the academy for the purpose of instruction

Sec. 4. The regents of the University shall direct the trustees of any academy

pend the moneys to be received by such academy from the annual distribution aforesaid, or any part thereof, in the purchase of books, apparatus, or other articles, to be kept for the purpose of instruction in such academy ; and if the trustees of any academy shall neglect to comply with any such direction, such academy shall be excluded from any participation in the aforesaid annual distributions thereafter to be made, until the said direction shall be fully complied with.

Instead of section fourth, insert the following :

Sec. 6. The said Regents, whenever the annual income of the Literature Fund shall so far exceed the sum of ten thousand dollars as to enable them to defray the expenses of the actual examination of the several academies under their care, may, from time to time, appoint so many competent persons as they shall think proper, to examine into and to report concerning the mode and subjects of instruction, and to perform all such other duties

ies so to be performed, by the said
ty to examine all persons who shall
as candidates for teaching common
qualifications of such candidates, in
ing and ability, to deliver to them

y any person so authorised to exa-
thorise the employment of the per-
been given, in any of the common
y other examination or certificate ;
ny town in which such person shall
power to annul such certificate, or
teacher holding the same, as is pos-
r cases.

to be appointed, shall receive such
as the Regents shall determine, to
treasury of this State, in the man-

IN SENATE,

April 16, 1831.

REPORT

Of the committee on the division of towns and counties, against dividing the county of Chautauque

Mr. Beardsley, from the committee on the division of towns, to which was referred petitions for the division of Chautauque, and remonstrances against the same,

REPORTED AS FOLLOWS:

That the petitioners ask for a division of the county, and westerly through the county.

The committee forbear going into the details of the reasons urged in favor of the proposed division, and conclude that it would be impolitic to divide the county.

Chautauque is about 36 miles long, and about 36 miles east and west on the north and south; and about 18 miles on the north to Lake Erie, and is washed by the lake on the north and easterly side.

The seat of justice is at Mayville, about seven miles from Lake Erie, and is considerably north and west of the center of the county, but the Holland Land Company's office is at Mayville, and the court-house is at Mayville, and the roads in the county have been laid out from Mayville, and the county buildings are at Mayville.

Chautauque lake, one of the most beautiful in the State, stretches from Mayville about 20 miles to the southeast, at the outlet of which is the flourishing village of Jamestown.

This lake is navigable, and during spring, summer, and autumn, a steam-boat makes regular daily trips from Jamestown to Mayville, and back to Jamestown the same day; thus keeping up a regular, cheap and expeditious communication between Mayville and the southeastern part of the county.

No part of the county appears to be inconveniently situated, except three or four towns in the northeasterly part of the county, and these towns are not as far from the county seat as many towns in the old counties. Chautauque is comparatively a new county, the greater part of it having been but recently settled.

The mass of inhabitants, like those of all new counties, are con-
and improvements; but from the
of its climate, its pure and whole-
of hydraulic privileges, aided by
citizens, is rapidly increasing both
a few years, will far outstrip the

e country is deservedly high, and
population, from about 20,600, to
(for an agricultural country,) is
r. Five years more will give it a
obably of 50,000,

committee believe, would, at pre-
ould necessarily increase the ex-
taxes. It would reduce it to two
y or much impair its influence.

longer sustain the high character
ce have no doubt a division would
alue of real estate generally in the
d of the two villages where court-

on Lake Erie, at two of which
oats arrive and depart every day,
at the other, at the mouth of Sil-

From these harbors roads are laid out, extending south and southeasterly through the county, to Pennsylvania; and regular daily stages run, through the year, from Buffalo to Upper Pennsylvania and Ohio, and from thence back to Buffalo.

Possessing all these advantages, the committee cannot for a moment believe that it is for the interest of the great body of inhabitants to divide the county.

They would rather recommend that it remain as it is until, from its great increase of inhabitants and accumulation of business, public convenience shall require a division, and the inhabitants shall be better able to defray the increased expenses.

Whether a division ever ought to be made, and thus destroy the symmetry and fair proportion of the county, the committee will not attempt to decide, but are content after them such ulterior regulations inhabitants may require.

Chautauque lake
from Mayville
is the flo

T

IN SENATE,

April 20, 1831.

ANNUAL REPORT

Of the New-York Dry Dock Company.

*Statement of the funds of the Bank of the New-York Dry Dock
Company, 31 December (1 January 1830.) 1831.*

Capital stock,
Notes in circulation,
Debts due to other Banks,
Deposites,
.....

Banking-House,
Bills discounted and loans,
Plates, paper, furniture, &c.
Debts due from other Banks,
Specie,
.....

*Statement of the Funds of the New-York Dry Dock
Company, 31st December—1st January 1831.*

Capital stock paid in,
Debt due the bank of the company, ...

Banking capital,	\$200,000 00
Real estate and improvements at cost, being now much depreciated,	406,676 92
Railways, do	145,005 57
Steam-boat, do	20,879 73
Blacksmith's shop, do	3,034 35
Bills receivable and debts due the company,	2,780 74
Bad and doubtful debts amounting to \$14,166.19, but which, for the sake of a balance, are estimated at (Of these, \$10,293.37 arose from banking opera- tions.)	2,374 95

\$778,752 26

STATE OF NEW-YORK, }
CITY OF NEW-YORK. } ss.

Ezra Weeks, President, and
of the New-York Dry Dock Company,
do depose and say, that the annexed
true account of the amount of the capi-
tal, appropriated to and employed in the
the amount of the debts due to and from
issuing such debts as may have accrued
on the other debts of the corporation;
emitted by the said bank in circulation,
the time of making the statement, ac-
knowledge and belief.

E. WEEKS, *President.*

W. STEBBINS, *Cashier.*

No. 77.

IN SENATE,

April 25, 1831.

NOTE

**In addition to a Memorial relative to the claim of
John Jacob Astor, by Edmond Charles Genet.**

With a memorial respectfully offered to the consideration of the Senate

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1. Because it is incontestible, that the two acts passed by the Legislature of this State, relative to Mr. Astor's claim, are directly contrary in their dispositions, admissions and stipulations, to the rules of the common law, in matters of landed tenure and forfeited estates.

2. Because, if those acts are contrary to the rules of the common law, the United States circuit court ought not to have instructed the jury "*to be guided by their true intent and meaning.*"

3. Because the presiding judge did allow the plaintiff to prove that the suits were defended by the State of New-York ; Mr. Bronson, and before him, Mr. Talcott, having signed certain stipulations on the part of the defendants, as attorney-generals of the said State.

This fact being ascertained, as well as the existence of the two de opinion, to have stopped all fur-
asmuch as, a suit on a plea of trea-
t the sovereign and lord paramount
inst his avowed tenants in fee, be-
explained in my memorial, to all
mmon law and the law of nations,
ramined by the United States su-
ent above reported, and also under
ges of the United States supreme
and guardians of the rights deleg-
overnment of the United States, as
ressly retained by, reserved to the
e States ; and though every friend
be gratified to find in the federal
each the State laws with deference
resent case, by mistakes, fraudu-
nents, a legislative body has been
erred in the enacting of a law, it
uest of the Attorney-General, that
e circuit, and the honorable Judges
dered against the tenants duly en-
acted in the spirit of the constitu-
ndment above stated, in rejecting
ce, which has had the most delete-
ch, together with many other ex-
United States circuit court, enti-

the the State to *demand and obtain* the revision and reversal of all the judgments recovered and perfected by Mr. Astor, on the grounds which I have most respectfully submitted in my memorial.

E. C. GENET.

*Prospect-Hill, Town of Greenbush, }
March 10, 1831. }*

ERRATA IN MR. GENET

Page 22, 21st line, remove the *see*
the 23d line ; and in lieu of *by the a*

Page 25, 27th line, in lieu of *assi*

Page 34, line 26, in lieu of *to con*

IN SENATE,

April 26, 1831.

REPORT

Of the committee on finance, on the bill from the Assembly entitled "An act concerning the interest of money."

The committee on finance, to w
the Assembly entitled "An act conc

REPORTED:

That said bill proposes on all futu
of interest to be charged from seven

A subject of this magnitude, whi
on the industry of our State, and com
our favor by a strong vote from the
demands at the hands of your commi
single day allotted to them of the pre
day broken in upon by other duties
right to present to the Senate such
although the delay occasioned thereb
the bill, inasmuch as they have co
public interest would not be promote

Money is an important agent to'stin
of the country; it is equally importan
power, water power, or manual labor
moves all others; It is emphatically
cause of industry is therefore best p
tended diffusion, and every avenue
effect this object.

Money possesses the property of begetting money, and the tendency to remain where it is produced and propagated; a tendency which will control it, all other things being equal; it is there its proprietor can best manage it, without the intervention of agents, and with the satisfaction of a personal knowledge of the borrower, the security, &c.

It follows, therefore, that money is most abundant in old and populous countries. This tendency in capital to remain stationary where it accumulates can be counteracted only by presenting at other points better subjects of investment, or an offer of a higher rate of interest; the prospect of gain, coupled with security for the capital; and stability of governmental regulations, will operate with unerring certainty to draw capital from countries where it is abundant and cheap, and transfer it to others where it is scarce and dear; force of law; pains and penalties can one must be relied on.

useful on this subject than such as
y to the investments; this done, le-
ce, the rest must be left to the only
the laws of commerce. These laws
xert a salutary influence on money;
ts circulation, raise and depress its
vestment, and will compel it to minis-
of commerce in a manner the most
ry and the capital of the country.

asserted rather than argued be true,
cheap in old and populous countries;
ced, to seek new channels and new
ot only of our State, but of the na-
plain and obvious. We should look
out to foreign nations for capital, and
d State legislation should pursue a
resident capitalists; our public stocks
well secured pledges; our moneyed
stable and secure as possible; even
may hold and enjoy our lands should
ad secure.

e high value which commerce has
in our country, will insure its con-

stant and steady flow from Europe to America, and from the old to the new States, as well as from the old to the new parts of the same State. The investments most inviting to foreigners should be guarded with most care, always recollecting that the *mode* of investment to us is unimportant, the acquisition of capital all important. If foreign capital seek investment in our public stocks and our banks, it releases an equal amount of native capital which seeks some other employment, as manufactures, agriculture, or commerce. If it find investment in our lands, then it releases an equal amount which would have been required for that purpose, and leaves it free to engross our public stocks, banks, &c. ; if the sum total of capital is augmented, no matter in what channels it may flow, the benefit to the nation or State is achieved.

The committee deem it important to add, that while the augmentation of capital from abroad promotes every branch of industry, it does not, in any considerable degree, injure the native capitalist, or even the native farmer. A seeming paradox will be explained. If all permanent investments are made, the price of money falls. Thus the rate of interest should be reduced. The prospect of remaining permanent investments is redeemable at a remote period at 100 per cent premium; and the farmer is to lend his future income at the same time, if he chose to purchase securities, or any other productive investment, be able to obtain them when money was worth six per cent, and funds coming in, are worth a hundred per cent, paired in value; but the amount of the change in the market price of money is such that no evil results from this. The committee interpose its authority to prove that no evil results from this.

The committee having presented their views on the subject of capital, they now give their objections to the bill.

And 1st : The bill proposes to fix the maximum price at which

When the legal rate is at or above the current or commercial rate, then the law ceases to operate as a restraint, and the value and circulation of money is regulated, as it should be, entirely by the laws of commerce ; high at one place and low at another, high at one time and low at another, according as demand and supply may fluctuate. Such is happily the present condition of capital and interest in our State. Seven per cent, the present legal rate, though certainly not above, yet is about equal to the maximum price of money in the northern and western parts of our State, where capital is least abundant, and most valuable ; it follows, therefore, that the law has little if any practical operation on the subject. In those parts of State, temporary loans on good personal security, payable quarter or half yearly, are generally made at six per cent. Two branches of the United States bank are loaning freely at that rate ; the local banks, though entitled to seven per cent by law and by charter, are restricted by competition to six per cent, on most of their loans, &c.

made in the same sections of our State, payable half yearly ; and at this rate, from New-England to the south, if not interrupted, to supply extensive regions of our State, where there is still unoccupied.

the price of money is less by about one per cent than the current rate of interest on bond and mortgage. Bank discounts at all the places are made at six per cent ; temporary loans on good security which are waiting and seeking better investment in public stocks, redeemable at a distant date, will sell readily at par.

We possess accurate information on the rate of interest, in this State, ranging from five to seven per cent, according to location, season, and other circumstances.

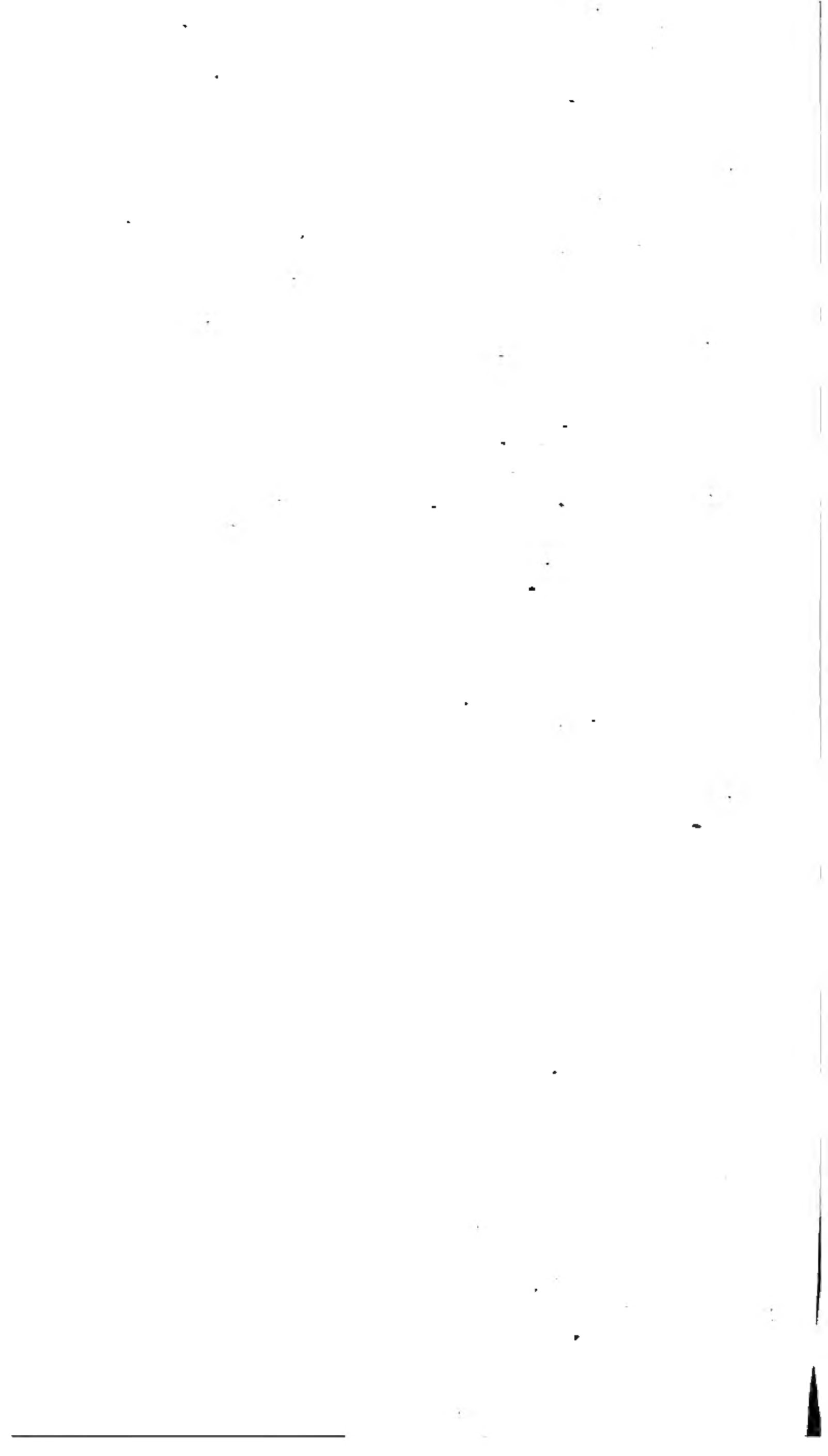
The legal rate of seven per cent, cannot be removed, and if removed, there is no probability of a higher rate ; it is still more ap-

dified, it should be done in such manner as to leave the parties to all future contracts at liberty to stipulate for the rate of interest, fixing by law a rate to govern all contracts when the parties shall omit to do so.

All which is respectfully submitted.

ALVIN BRONSON.

April 25th.



parent that the law allowing him seven per cent, does not, in any manner, enable the lender to command that high rate; for where money is most abundant, and the largest sums are loaned, it brings from four and an-half to six per cent only.

And 2d: Your committee object to the restraint to six per cent, because they believe large sums are required and may be loaned at a higher rate with advantage to both lender and borrower.

Your committee are indebted to a colleague for the following facts, derived from the register's office at New-York.

It appears that near fifty millions of dollars are loaned in the city of New-York, on mortgage, and the major part of it at an annual interest of 7 per cent.

That in the months of April, May were loaned in that city, on mortgage,

At 5 per cent,.....	
At 5½ ".....	
At 6 ".....	
At 6½ ".....	
At 7 ".....	

During about nine months of the report of the Life Insurance and Trust Co. in thirty-six counties, exclusive of holders, \$518,892, and that, as your committee, secured by a pledge of real estate loan, at least. This half million of counties, in the short period of nine months sought for with some avidity, at the rate of \$100,000 per month, by a class of our citizens well able to pay the interest; substantial freeholders, poor, of the value, at least, of a mil-

To interpose the authority of law, to prevent the lender from giving and receiving more money, and to dry up this source to the country, and to lay it upon the city, where it is already

where is no restraint, or where the
by paralysing the enterprise and
country, and aggravating many fold
rased, denying to them the hope

n Alabama, Mississippi and Geor-
t, while in Virginia and Ohio the

is not within the reach of legis-

as an adequate compensation for
have no means of compelling the
at rate ; and all attempts to do so
ect.

7 per cent operated oppressively
an they could afford. If this be
evil. No law can compel a sale
ore, the seller is restricted in his
f by adding to the principal on

at this matter of both principal
tinue to be more equitably ad-
an it could be by the Legislature ;
and in the fact, that most of the
know stands, as well as those of
within the last forty years, been
rest of 7 per cent, and no city or
pered better than these.

therefore, that the proposed re-
the prosperity and industry of
se north and west the use of the
th ; that your citizens can best
bat they are more competent to
e of money than the Legislature ;
his matter ought not to be dele-
cannot be wisely and profitably
mend, if the present law be mo-